United Nations A/72/332

General Assembly

Distr.: General
15 August 2017

Original: English

Seventy-second session
Item 53 of the provisional agenda*
United Nations Relief and Works Agency for Palestine Refugees in the Near East

United Nations Conciliation Commission for Palestine

Note by the Secretary-General

The seventy-first report of the United Nations Conciliation Commission for Palestine, covering the period from 1 September 2016 to 31 August 2017, has been transmitted by the Chair of the Commission for communication to the States Members of the United Nations in accordance with paragraph 6 of General Assembly resolution 512 (VI) and paragraph 2 of Assembly resolution 71/91.

Seventy-first report of the United Nations Conciliation Commission for Palestine

In paragraph 2 of its resolution 71/91, the General Assembly requested the United Nations Conciliation Commission for Palestine to report to the Assembly as appropriate, but no later than 1 September 2017. The Commission recalls its report of 17 August 2016 (A/71/335) and observes that it has nothing new to report since the submission of that report.

* A/72/150.

17-14005 (E) 230817

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United Nations A/72/333

General Assembly

Distr.: General
14 August 2017
English
Original: English/Spanish

Seventy-second session
Item 37 of the provisional agenda*
The situation in the Middle East

The situation in the Middle East

Report of the Secretary-General

Summary

The present report contains replies received from Member States in response to the note verbale by the Secretary-General of 2 May 2017 concerning implementation of the relevant provisions of General Assembly resolutions 71/24 and 71/25, on the situation in the Middle East.

* A/72/150.

17-14007 (E) 060917

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I. Introduction

1. The present report is submitted pursuant to General Assembly resolutions 71/24 and 71/25. In its resolution 71/24, the Assembly demanded once more that Israel withdraw from all the occupied Syrian Golan to the line of 4 June 1967 in implementation of the relevant Security Council resolutions. In its resolution 71/25, the General Assembly stressed that a comprehensive, just and lasting solution to the question of the City of Jerusalem should take into account the legitimate concerns of both the Palestinian and Israeli sides and should include internationally guaranteed provisions to ensure the freedom of religion and of conscience of its inhabitants, as well as permanent, free and unhindered access to the holy places by people of all religions and nationalities.

2. On 2 May, in order to fulfil my reporting responsibility under resolutions 71/24 and 71/25, I addressed notes verbales to the Permanent Representative of Israel and to the Permanent Representatives of all other States Members of the United Nations requesting them to inform me of any steps their Governments had taken or envisaged taking concerning implementation of the relevant provisions of those resolutions. As at 15 August 2017, replies had been received from Brazil, Iraq, Mexico and the State of Palestine. The replies are reproduced in section II of the present report.

II. Replies received from Member States

State of Palestine

[Original: English]

The resolution concerning Jerusalem represents an integral part of the clear stance of the General Assembly regarding the question of Palestine, including one of its key aspects, the question of the city of Jerusalem. This resolution is grounded in international law and consistent with the relevant United Nations resolutions adopted by the General Assembly and the Security Council, and with the Advisory Opinion rendered on 9 July 2004 by the International Court of Justice. The resolution, adopted by the Assembly on 30 November 2016, continues to receive the overwhelming support of States, as it reflects the long-standing and principled international position regarding the City of Jerusalem.

On the eve of the fiftieth anniversary of Israel's occupation of Palestinian territory in 1967, including East Jerusalem, the General Assembly's adoption of resolution 71/25 confirms the consistent and continuous rejection of all Israeli measures aiming at entrenching its illegal annexation of East Jerusalem instead of ending its occupation, thus further obstructing efforts to peacefully resolve the Israeli-Palestinian conflict, which remains the core of the Arab-Israeli conflict.

In this regard, the Assembly reiterated its determination that any actions taken by Israel, the occupying Power, to impose its laws, jurisdiction and administration on the Holy City of Jerusalem are illegal and therefore null and void and have no validity whatsoever, and called upon Israel to immediately cease all such illegal and unilateral measures, mirroring provisions in previous Security Council and General Assembly resolutions, recalled in resolution 71/25, determining that all legislative and administrative measures and actions taken by Israel, the occupying Power, that have altered or purported to alter the character and status of the Holy City of Jerusalem, in particular the so-called "Basic Law" on Jerusalem, are considered null and void and must be rescinded forthwith.

This principled position was reaffirmed and reinforced by the Security Council's adoption of resolution 2334 (2016). The State of Palestine has repeatedly appealed for the full respect and implementation of Security Council resolution 2334 (2016), as well as all other relevant resolutions. That resolution, pursued earnestly by the State of Palestine with conscientious Council members, reflects the international community's long-standing and unequivocal stance regarding the requirements for a just, comprehensive and lasting solution to the conflict, including as regards Jerusalem. The resolution, in line with relevant provisions in previous Security Council and General Assembly resolutions, including resolution 71/25, reaffirmed the inadmissibility of the acquisition of territory by force, underlining that the Council will not recognize any changes to the 4 June 1967 lines, including with regard to Jerusalem, other than those agreed by the parties through negotiations, and condemned all measures aimed at altering the demographic composition, character and status of the Palestinian Territory occupied since 1967, including East Jerusalem.

East Jerusalem has always been a primary target of these illegal measures. This year is no exception. Israel's construction and expansion of its settlements and their associated regime, including the construction of the wall, its restrictions on Palestinian access to and residence in East Jerusalem through, inter alia, military checkpoints, settlers' roads, confiscation of land, discriminatory zoning and planning, demolition of homes and revocation of residency cards, have continued unabated.

Israel has announced and advanced plans for thousands of settlement units in and around East Jerusalem since the adoption of resolution 71/25. The monthly average of demolitions in East Jerusalem since the beginning of 2017 remains at the same level as in 2016, when demolitions reached a 15-year record. In East Jerusalem, only 13 per cent of the municipal area, most of which is already built up, is zoned for Palestinian construction. Up to a third of Palestinians in East Jerusalem face the risk of demolition and displacement. As stressed by the Office for the Coordination of Humanitarian Affairs, demolitions — along with a broad range of other official Israeli practices and policies — contribute to creating a coercive environment, which is leading to forced displacement, particularly in East Jerusalem. Israel has continued its policy aiming to restrict access for Palestinians to Jerusalem and to sever East Jerusalem from its Palestinian environment.

The Assembly's call for respect for the historic status quo at the holy places of Jerusalem, including the Haram al-Sharif, in word and practice, was also violated by Israel. We recall here the Security Council's press statement of 17 September 2015, in which it was underscored that Muslim worshippers at the Haram Al-Sharif must be allowed to worship in peace, free from violence, threats and provocations and calling for respect for the sanctity of the area and for maintaining the historic status quo at the holy sites. Just this past month, tensions reached extremely high levels due to violence and repeated provocations and incitement by Israel, the occupying Power, against our people and holy sites in occupied East Jerusalem, notably the Haram al-Sharif, which houses the Holy Al-Aqsa Mosque, in absolute contempt for international law and the will of the international community.

In this regard, on Friday, 14 July 2017, following an attack that occurred in the vicinity of the Haram al-Sharif, President Mahmoud Abbas called Prime Minister Netanyahu to condemn the attack and to call for respect for the historic status quo. Despite assurances by Prime Minister Netanyahu that Israel would uphold the historic status quo, the Israeli Government took a dangerous decision to close Al-Aqsa Mosque and ban Friday prayers and undertook a number of measures hindering the unimpeded access of Muslim worshippers to the holy site. These measures, which violate the historic status quo, included the installation of metal detectors and metallic bars, as well as the placing of additional cameras outside the Holy Compound.

Despite repeated and continuous violations of international law by Israel, President Mahmoud Abbas and the Palestinian leadership continued to demonstrate their commitment to non-violence and peaceful, political, diplomatic, legal means for the attainment of Palestinian rights and the achievement of a just and lasting solution to the conflict, as well as their readiness to cooperate with all international and regional efforts towards achieving that end. In this regard, the State of Palestine called for respect for the sanctity of the holy sites in Jerusalem, respect for the historic status quo at the Haram al-Sharif and an end to provocations, incitement and violence.

The Palestinian leadership, in coordination with the Hashemite Kingdom of Jordan, given its special role with regard to Muslim and Christian holy sites in Jerusalem, maintained close contact with the Secretary-General and other United Nations officials, as well as with members of the international community, to ensure that Israel swiftly reverses its recent measures and ends all actions violating the historic status quo in order to ensure the de-escalation of this perilous situation.

Palestine pursued and contributed to the adoption of clear positions regarding the need to fully uphold the historic status quo by the Arab League, the Organization of Islamic Cooperation, and the Non-Aligned Movement. The State of Palestine has also repeatedly highlighted the grave issues facing Jerusalem, including in the context of its official letters addressed to the Secretary-General and the Presidents of the Security Council and General Assembly, drawing the international community's attention to the perils of this fragile situation in Jerusalem as a result of Israel's illegal policies and practices and also due to provocations and attacks by Israeli settlers and religious fanatics against Palestinian civilians and against Muslim and Christian holy sites. It has cautioned about the far-reaching short-term and long-term consequences of any further destabilization, notably in the context of the acute crises, conflicts and instability throughout the region at the present time, including the stoking of a religious conflict. It has also continued to garner and provide support for the Palestinian people in the city and for the preservation of the cultural and religious heritage in Jerusalem.

Such efforts have been undertaken in spite of the deliberate and blatant Israeli obstruction of access for the Palestinian Government to the City and the occupation's obstruction of Palestinian development in the City. In this regard, we must also draw attention to the fact that numerous official Palestinian institutions in Jerusalem, including Orient House, remain closed by order of the occupying Power, in violation of Security Council resolution 1515 (2003).

The Palestinian people peacefully expressed their rejection of these illegal and provocative measures against their rights and their holy sites, including by refusing to enter the Holy Compound and by praying in the street instead. Yet their peaceful demonstrations and steadfastness in preserving the character and identity of the city were met with violent repression and attacks by Israeli occupation forces and armed Israeli settlers, leading to the killing and wounding of Palestinian civilians.

Israel thus demonstrated once again its contempt for international human rights law, including, where applicable, the law enforcement paradigm, and more specifically the prohibition of arbitrary deprivation of life. Palestinians were killed as a result of unnecessary and unwarranted use of force, confirming yet again the harrowing pattern of unlawful killings and unwarranted injuries of Palestinian civilians by Israeli forces. Israel also continued to resort to mass arbitrary arrest, including against elected representatives and political figures, as a form of collective punishment with the aim of intimidating and significantly restricting the freedoms of Palestinians.

While resolution 71/25 calls on all parties to refrain from provocative actions, incitement and inflammatory rhetoric, especially in areas of religious and cultural sensitivity, Israeli government officials continued to make provocative statements, further exacerbating the situation. We refer in this regard to the statement by the Israeli Minister of Public Security, Gilad Erdan, who declared: "Israel holds sovereignty over the Mount, no matter what other countries' positions are and if we decide that a certain move has a certain advantage, then it is carried out." Furthermore, the so-called Israeli "ministerial committee for legislation affairs" approved a bill on 16 July that aims at further obstructing peace efforts by trying to consolidate Israel's illegal annexation of East Jerusalem.

Israel finally reversed the measures adopted as of 14 July in violation of the historic status quo. However, Israel did not put an end to its violations throughout the Occupied Palestinian Territory, including East Jerusalem, thus perpetuating the conflict and further fuelling the situation. East Jerusalem is an integral part of the Occupied Palestinian Territory, and only an end to the Israeli occupation, including of East Jerusalem, can lead to a just, comprehensive and lasting solution to the conflict.

We continue to underscore the permanent responsibility of the United Nations towards the question of Palestine, including the question of the City of Jerusalem, which has unique spiritual, religious and cultural dimensions, until it is satisfactorily and justly resolved in all aspects, in accordance with international law, United Nations resolutions, the Madrid principles, including land for peace, and the Arab Peace Initiative. Thus, as in previous resolutions, the Assembly stressed in resolution 71/25 that a comprehensive, just and lasting solution to the question of the City of Jerusalem should take into account the legitimate concerns of both the Palestinian and Israeli sides and should include internationally guaranteed provisions to ensure the freedom of religion and of conscience of its inhabitants. We stress in this regard that the legitimacy of the concerns derives from their consistency with international law. The Assembly also called for permanent, free and unhindered access to the holy places by people of all religions and nationalities.

Israel must no longer be able to persist in its illegal occupation and colonization of Jerusalem and the rest of the Palestinian territory that it has occupied since 1967. The occupying Power must finally adhere to the applicable provisions of international law, including the Fourth Geneva Convention, and be held accountable for any and all violations committed against the Palestinian people, their properties and land.

We continue to call for and support serious, responsible and urgent efforts towards ensuring Israel's complete withdrawal from the Palestinian territory occupied since June 1967, including East Jerusalem; the achievement of the two-State solution of an independent, sovereign, contiguous and viable State of Palestine, with East Jerusalem as its capital, living side by side with Israel in peace and security within recognized borders based on the pre-1967 borders; and the realization of the inalienable rights of the Palestinian people, including a just solution for the Palestine refugees based on General Assembly resolution 194 (III). The Palestinian leadership reaffirms its commitment to a peaceful and just solution and likewise urges the international community to uphold its obligations and commitments.

Brazil

[Original: English]

The Permanent Mission of Brazil to the United Nations has the honour to refer to the notes verbales of the Secretary-General regarding General Assembly resolutions 71/23, 71/24 and 71/25, adopted under the agenda items "Question of Palestine" and "The situation in the Middle East", in order to inform steps taken by the Government of Brazil concerning the implementation of the said resolutions.

In 2010, Brazil recognized the State of Palestine within its 1967 borders, with East Jerusalem as its capital. In accordance with Security Council resolution 478 (1980), Brazil does not recognize the city of Jerusalem as the capital of Israel and deems null and void the so-called "Basic Law of Jerusalem". The Embassy of Brazil in Israel is located in Tel Aviv. In this regard, Brazilian passports issued to persons born in Jerusalem do not mention Israel as the country of birth.

Brazil has reiterated the illegality under international law of the Israeli occupation of the Occupied Arab Territories, as well as the international obligations of Israel as an occupying Power, including in the Syrian Golan. The actions of Brazil are aimed at ensuring that Israel respects the provisions of the Fourth Geneva Convention and other applicable international norms.

As in previous years, during the seventy-first session Brazil voted in favour of General Assembly resolutions under the agenda items "Question of Palestine" and "The situation in the Middle East". Concerning the resolution on the Syrian Golan, Brazil and Argentina delivered a joint explanation of vote, as in previous years, clarifying that both countries have no intention of prejudging the delimitation of the territory to be returned by Israel to Syria, to be negotiated between the parties. The explanation of vote reiterated the fundamental unlawfulness of the acquisition of territory by force according to International Law, and in particular article 2, paragraph 4, of the Charter of the United Nations.

In this regard, Security Council resolution 497 (1981), adopted unanimously, declared null and void and without international legal effect Israeli decisions to impose its laws in the occupied Syrian Golan, as these measures violate the 1949 Geneva Convention on the Protection of Civilian Persons in Time of War.

The Brazilian legislative decree by which the Free Trade Agreement between Brazil and Israel was approved determined that the Government shall negotiate the "exclusion, from the Agreement's coverage, of goods whose certificates of origin attest as their origin sites under Israeli administration since 1967", which includes not only the Occupied Palestinian Territories, but also the occupied Syrian Golan. This issue is currently on the agenda of the Joint Committee established under the Agreement.

Brazil supports the activities of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), having contributed the equivalent of over S$20 million to the Agency since 2008. Brazil has been a member of the Advisory Commission of UNRWA since 2014.

Iraq

[Original: Arabic]

General Assembly resolution 71/24

Iraq fully supports General Assembly resolution 71/24, which is entitled "The Syrian Golan", and calls on all Member States to implement it immediately.

Iraq reiterates that all the actions and measures that Israel has taken to alter the legal status, physical character, demographic composition and institutional structure of the occupied Syrian Golan and to impose its jurisdiction and administration on that territory, including the construction and expansion of Israeli settlements in the Syrian Golan, which has been occupied since 1967, are without legal effect and constitute a flagrant violation of international law, the Charter of the United Nations and United Nations resolutions.

The international community must fulfil its responsibilities pursuant to international law and United Nations resolutions and prevent Israel from persisting with its violations, including the plundering of the natural resources of the occupied Syrian Golan in contravention of the principle of the permanent sovereignty of occupied peoples over their natural resources.

General Assembly resolution 71/25

Iraq fully supports General Assembly resolution 71/25, which is entitled "Jerusalem", and calls on all Member States to implement it immediately and fully. It strongly condemns the Judaization policy of the occupying authorities. That policy will only fuel conflict, undermine the two-State solution and encourage radicalism. Iraq reiterates its support for a just and comprehensive solution to the question of Palestine and Al-Quds al-Sharif that is founded on the Arab Peace Initiative, which was adopted by the Organization of Islamic Cooperation, and international resolutions concerning the legal status of Quds al-Sharif, under which the city is considered to be part of the territory that Israel occupied in 1967 and the capital of the State of Palestine. Iraq has endorsed League of Arab States resolutions 8109, 8110, 8111, 8112, 8113, 8114 and 8115, all of which were adopted by the Council of the League at its 147th session at the ministerial level, and League of Arab States resolution 674, which was adopted at the 28th session at the summit level.

Iraq reiterates that all States must comply with Security Council resolutions 476 (1980) and 478 (1980), in which Member States are called on not to transfer their diplomatic missions to Jerusalem. Iraq supported the adoption of recommendations by the Arab-Chinese Forum that was held in Beijing from 21 to 25 May 2017. It supports all recommendations related to the Palestinian question and stresses the importance of taking a decisive position with regard to Israeli violations in the occupied city of Jerusalem, as set out by the Arab-Russian Forum that was held in Abu Dhabi in February 2017.

Iraq calls on the United Nations to raise awareness of the collective international responsibility towards Jerusalem and urge the international community to fulfil completely its responsibility to protect Jerusalem and its international human and cultural legacy and its educational, demographic and cultural character. The Organization must put pressure on Israel to halt all colonial activity, which is aimed at altering the legal status of the Holy City, by implementing the relevant Security Council resolutions, the most recent of which is resolution 2334 (2016).

Iraq reaffirms that the United Nations has a permanent responsibility towards the question of Palestine, including the city of Jerusalem, and that it must find a just

solution that addresses all aspects of the question in accordance with international law. Jerusalem is significant not only to the Palestinians and Israelis, but also to the followers of all three monotheistic religions and to the international community. The time has come to bring to an end the half-century Israeli occupation of Palestine. Serious, responsible and urgent efforts must be made to ensure that Israel withdraws fully from occupied Palestinian territory, including East Jerusalem, and to realize the two-State solution, namely, the establishment of the independent, sovereign, geographically contiguous and viable State of Palestine, with East Jerusalem as its capital, living side by side with Israel in peace and security within recognized borders that are based on the pre-1967 borders.

Mexico

[Original: Spanish]

The Permanent Mission of Mexico to the United Nations has the honour to refer to the note verbale in which information was requested on the implementation of General Assembly resolutions 71/24 and 71/25 on the situation in the Middle East.

The Permanent Mission of Mexico has the honour to forward the following reply from the Government of Mexico to this request:

- Mexico supports a comprehensive solution to the Middle East conflict based on the existence of two States, Israel and Palestine, living side by side within secure and internationally recognized borders in accordance with United Nations resolutions.

- The Government of Mexico has emphatically rejected the continued expansion of Israeli settlements in the occupied Palestinian territories and the territory of the Syrian Golan. It has therefore called on the Government of Israel to revoke such measures and avoid such actions as evictions and the demolition of Palestinian homes in the occupied Palestinian territories, including East Jerusalem. Mexico considers that those actions are contrary to international law and do not help to create a climate conducive to the negotiation process between the two parties.

United Nations A/72/334

General Assembly

Distr.: General
14 August 2017

Original: English

Seventy-second session
Item 53 of the provisional agenda*
United Nations Relief and Works Agency for Palestine Refugees in the Near East

Palestine refugees' properties and their revenues

Report of the Secretary-General

Summary

The present report is submitted pursuant to General Assembly resolution 71/94 on Palestine refugees' properties and their revenues. On 19 May 2017, the Secretary-General sent notes verbales to all Member States, drawing their attention to the relevant provisions contained in resolutions 71/91 to 71/94 and requesting information by 14 July 2017 concerning any action taken or envisaged in relation to their implementation. Replies were received from Israel and Mexico to the requests contained in paragraph 4 of resolution 71/91, paragraph 4 of resolution 71/92, paragraphs 12 to 30 of resolution 71/93 and paragraph 4 of resolution 71/94.

* A/72/150.

17-14004 (E) 180817

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I. Introduction

1. The present report is submitted pursuant to paragraph 6 of resolution 71/94 on Palestine refugees' properties and their revenues.

2. On 19 May 2017, the Secretary-General sent notes verbales to all Member States, including Israel, drawing their attention to the relevant provisions of resolutions 71/91 to 71/94 and requesting information by 14 July 2017 of any action taken or envisaged in relation to their implementation.

II. Replies received

Israel

[Original: English]
[26 July 2017]

The Permanent Mission of Israel to the United Nations has the honour to refer to his note concerning resolutions 71/91 to 71/94, adopted by the General Assembly on 6 December 2016, under the agenda item "United Nations Relief and Works Agency for Palestine Refugees in the Near East".

Israel decided, once again, to vote against these resolutions, owing to their apparent political motive and the fact that they represent a one-sided view which fails to reflect the reality on the ground.

Israel supports the humanitarian activities of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), in line with its original and primary mandate of aiding the refugees and carrying out the direct relief and works programmes.

Nevertheless, Israel remains deeply concerned regarding the Agency's persistent use of humanitarian funding for the purpose of advocacy. Israel is troubled by the Agency's perpetuation of a one-sided narrative about the conflict in our region, with the refugees serving as the primary means of achieving this goal.

Instead of focusing on relief and humanitarian assistance, UNRWA chooses to promote a controversial political agenda. One example is the Agency's proactive campaigns supporting the so-called "right of return" for millions of Palestinians. The question of Palestinian refugees has not been agreed between Israel and the Palestinians and can be resolved only through direct bilateral negotiation between the parties. It is unacceptable for a United Nations agency to actively promote the agenda of one side of the conflict. The Agency's advocacy in this regard is inappropriate and undermines efforts to achieve a political solution.

Unfortunately, along with the Agency's use of humanitarian funding for the purpose of political campaigns, we have witnessed through the years many examples of misconduct by the Agency and its employees.

Recently, UNRWA personnel have even been found within the ranks of the internationally designated terrorist organization, Hamas. In February 2016, Israeli authorities revealed that the Chairman of the UNRWA Staff Union in the Gaza Strip and Principal of the UNRWA boys' elementary school for refugee children, Suhail al-Hindi, had been elected to the political bureau of Hamas. This is the same al-Hindi who was suspended in 2011 by UNRWA after meeting with Hamas leader Ismail Hania. His suspension lasted only three months, after which al-Hindi was allowed to return to his prior position. Likewise, Muhammad al-Jamasi, head of the

UNRWA engineering department, was also reportedly elected to the Hamas political bureau.

At first, UNRWA denied the allegations regarding its employees. Only after being confronted with irrefutable evidence of their terrorist connections did the Agency suspend al-Hindi and al-Jamasi, providing no further information on the circumstances of their dismissal. Moreover, only when publicly questioned about the incident by Israel's Mission to the United Nations did the UNRWA Commissioner-General, Pierre Krähenbühl, confirm al-Hindi's dismissal. Even then, the Commissioner-General attempted to minimize the offence, claiming that al-Hindi was dismissed because he "ran for an elected office".

These are just two recent examples of misconduct by UNRWA. The Agency's employees have often engaged in egregious acts, including calls to commit acts of violence against Israelis on social media.

Mexico

[Original: Spanish]
[13 July 2017]

The Permanent Mission of Mexico to the United Nations has the honour to refer to the communication of the Department of Political Affairs dated 19 May 2017, concerning the request for information on the implementation of resolutions 71/92 and 71/94 on the topic "Operations of the United Nations Relief and Works Agency for Palestine Refugees in the Near East".

In that connection, the Permanent Mission has the honour to submit the following reply on the national measures taken to implement the said resolutions:

- Mexico recognizes the efforts of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) to improve the living conditions and promote the human development of Palestinian refugees by providing education and health services.
- The Government of Mexico supports the efforts of UNRWA to meet the needs of the Palestinian refugee population. Accordingly, its annual voluntary contribution to the Agency amounted to $250,000 in both 2016 and 2017.

United Nations A/72/335

General Assembly

Distr.: General
15 August 2017

Original: English

Seventy-second session
Item 73 (b) of the provisional agenda*
Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Unlawful death of refugees and migrants

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur of the Human Rights Council on extrajudicial, summary or arbitrary executions, Agnes Callamard, submitted in accordance with Assembly resolution 71/198.

* A/72/150.

17-14011 (E) 110917

Please recycle

Report of the Special Rapporteur of the Human Rights Council on extrajudicial, summary or arbitrary executions

Summary

The present report focuses on the mass casualties of refugees and migrants in the course of their flight. It addresses killings by both State and non-State actors, and denounces a quasi-generalized regime of impunity, worsened by an absence of accurate data on the dead and missing. The Special Rapporteur of the Human Rights Council on extrajudicial, summary or arbitrary killings calls urgently on States to address this human rights crisis by prioritizing the protection of the right to life in their migration and refugee policies.

The report presents evidence that suggests multiple failures on the part of States to respect and protect refugees' and migrants' right to life, such as unlawful killings, including through the excessive use of force and as a result of deterrence policies and practices which increase the risk of death. Other violations to the right to life result from policies of extraterritoriality amounting to aiding and assisting in the arbitrary deprivation of life, and from the failure to prevent preventable and foreseeable deaths, as well as the limited number of investigations into these unlawful deaths. The report also presents best practices in search and rescue operations and for the dignified treatment of the dead, but points out that States do not implement them as they should, and fail to resource them adequately.

The scale of casualties among refugees and migrants demands urgent attention at national, regional and international levels. The report presents recommendations for this purpose. The equal protection of all lives, regardless of migration status, is a central underpinning of the entire international human rights system: it must be upheld in the context of the movement of people and must form the foundation of all governmental and intergovernmental policies.

17-14011

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I. Introduction

1. The present report is concerned with what can only be described as a human rights and humanitarian crisis. This crisis is characterized by mass casualties globally, a regime of impunity for its perpetrators and an overall tolerance for its fatalities. The report is also concerned with an international crime whose very banality in the eyes of so many makes its tragedy particularly grave and disturbing.[1]

2. Its victims are refugees and migrants. Data on their arbitrary deprivation of life are still lacking or vastly inaccurate, making for a macabre balance sheet that tells us too little too late. The data do not tell us of the manner of these deaths: how many people have been executed, shot, drowned; how many have lost their lives to starvation or dehydration; how many have been tortured, denied life-saving treatment, or have died from despair. The figures tell us little about the perpetrators of violations against people forced to leave their homes and countries, be they security officials, armed groups or smugglers. The data do not reveal how State policies may be responsible for violence and abuse (A/65/222, para. 15).

3. It would seem that the universal right to life is limited by nationality, bounded by borders and visas and, ultimately, determined by the randomness of one's birthplace. Yet every human being, including those without formal authorization to cross a border, is entitled to the right to life — the most fundamental human right and the basis for all other rights — and entitled to protection.

4. There is a global understanding that this is a humanitarian crisis that must be tackled. In the 2016 New York Declaration for Refugees and Migrants (resolution 71/1), world leaders committed themselves to protecting the human rights of all refugees and migrants, regardless of status, and to saving lives. The Declaration has set in motion the development of two global compacts, the global compact on refugees, and the global compact for safe, orderly and regular migration, both of which are to be adopted in 2018.

5. The purpose of this report is to contribute to these efforts by: focusing on violations of the right to the life of refugees and migrants while on their journeys; addressing the role of States in terms of respecting, protecting and preventing the arbitrary deprivation of life at the hands of State and non-State actors; and highlighting measures to ensure that the equal protection of all lives, which is central to the international human rights system, form the foundation of all migration and refugee policies.[2]

II. Overview

6. Around the world today, more than 22.5 million people are refugees; the largest number since the Second World War.[3] The number of migrants worldwide — that is, people residing outside their country of birth — is the highest ever recorded, having reached 244 million (from 232 million in 2013). People have been forced from their homes by war, civil unrest, violence, persecution, famine, poverty,

[1] Ioannis Kalpouzos and Itamar Mann, "Banal crimes against humanity: the case of asylum seekers in Greece", *Melbourne Journal of International Law*, vol. 16, No.1 (2015).

[2] In preparing this report, the Special Rapporteur conducted thematic visits to Italy and to European Union institutions (10-19 May 2017), convened an expert meeting and conducted interviews with experts from a range of countries. She wishes to extend her gratitude to the Government of Italy and to the European Union institutions for their cooperation during her visits, as well as to the experts that assisted her research.

[3] Office of the United Nations High Commissioner for Refugees (UNHCR), Figures at a glance (Statistical yearbooks database), available from www.unhcr.org/figures-at-a-glance.html.

environmental degradation, discrimination and denial of access to basic services, and they leave in search of opportunities. A number have done so through legal pathways or third-country resettlement.[4] Many have left their countries of origin irregularly. On their journeys, they may face rampant crime, detention under inhuman conditions, sexual violence, slavery, kidnapping and even murder.

7. Migration and flight routes stretch from West Africa through Niger to Libya; from the Horn of Africa through the Sudan into Libya; from Central America through Mexico and into the United States of America and now, increasingly, into Canada; from Bangladesh into Libya and Italy; and from the Islamic Republic of Iran through Indonesia towards Australia. Other migration routes include the flight of Syrians into Turkey and the Rohingya from Myanmar into Bangladesh and other countries.[5] Established routes shift, particularly as destination nations, transit States and nations of origin erect ever more stringent barriers along them.

8. Thousands of refugees and migrants die or are killed every year. The International Organization for Migration admits that determining how many die or are killed is "a great challenge", that, at a minimum, 46,000 migrants have lost their lives or have gone missing worldwide since 2000[6] and that the: "true number of migrant deaths around the world is surely greater, however. Countless bodies are never found, countless missing persons are never reported; fatal journeys lost from all record".[7] Reporting mechanisms on the African routes are lacking,[8] and the number of deaths on the Central American routes is largely undetermined. We also have very little idea of how many have perished in the Gulf of Aden, the Bay of Bengal or the Andaman Sea.[9] Furthermore, gender-disaggregated data on such deaths is largely unavailable.[10]

9. Smugglers and traffickers are an integral component of this movement; without them, refugees and migrants are generally unable to navigate the barriers many States erect to deter entry.[11] Some smugglers are linked to transnational criminal networks while many are not.[12] With the multiplication of predatory actors, the risks are increasing. There are reports of abductions; people being detained or

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[4] Burden-sharing for the global refugee population resides disproportionally with developing countries, who host an increasingly higher percentage of the global refugee population: 86 per cent, compared with about 70 per cent two decades ago; see UNHCR, "Global trends in forced displacement in 2015" (Geneva, 2016).

[5] International Organization for Migration (IOM), World migration (global migration flows database); see also Peter Tinti and Tuesday Reitano, *Migrant, Refugee, Smuggler, Saviour* (London, C. Hurst and Co., 2016).

[6] IOM, Behind the Numbers, 17 December 2013.

[7] Tara Brian and Frank Laczko, *Fatal Journeys: Identification and Tracing of Dead and Missing Migrants*, vol. 2 (IOM, Geneva, 2016).

[8] Colin Sollitt, "Forgotten fatalities: the number of migrant deaths before reaching the Mediterranean", 27 June 2016; Hassène Kassar and Paul Dourgnon, "The big crossing: illegal boat migrants in the Mediterranean", *European Journal of Public Health*, vol. 24, No. 1 (August 2014).

[9] According to the Arakan Project, between June 2012 and May 2014, as many as 2,000 Rohingya are believed to have gone missing at sea; see Equal Rights Trust and Institute of Human Rights and Peace Studies, Mahidol University, *Equal Only in Name: The Human Rights of Stateless Rohingya in Malaysia* (London, 2014).

[10] Anecdotal evidence tends to show that women may be at greater risk of unlawful death.

[11] Tinti and Reitano, *Migrant, Refugee, Smuggler, Saviour*; United States of America, Department of Homeland Security, Office of Immigration Statistics, "An analysis of migrant smuggling costs along the southwest border" (Working Paper, November 2010).

[12] See, for example, Mark Micallef, "The human conveyor belt: trends in human trafficking and smuggling in post-revolution Libya" (Geneva, Global Initiative against Transnational Organized Crime, 2017).

kidnapped for ransom; forced labour; torture, including rape; and people being thrown off boats or left behind in deserts.

10. In a global environment where refugees and migrants are demonized, and their movements criminalized (A/HRC/23/46, para. 35), countries around the world have designed policies based on deterrence, militarization and extraterritoriality which implicitly or explicitly may tolerate the risk of migrant deaths as part of an effective control of entry. Deterrence policies are punitive, including policies ranging from securing the more accessible border entry points — thereby purposefully funnelling the migration flows into more hazardous terrain — to the imposition of strict detention and return policies.

11. Externalization involves a policy under which "border control no longer takes place at the physical borders" (A/HRC/23/46, para. 55). The goal is to ensure that people never reach destination States, thereby blocking their claims for asylum and other protections. The most visible version is the pushback both on the high seas and on land, a tactic that greatly endangers lives. Other tactics include funding migration control in third countries to ensure that refugees or migrants remain in their countries of origin, first asylum or transit.

12. Militarization and securitization of border control is a third common feature, including through the deployment of military equipment, drones and satellite surveillance to monitor migration routes.[13] The militarization of border control leaves civilians "vulnerable to a wide range of abuses" owing to the mind-sets of some who may perceive themselves as being akin to the military (A/HRC/26/36, para. 21).

13. Although often justified on grounds that they disrupt the business model of smuggling, most experts agree that these policies make migrants more dependent on smugglers, putting their lives at even greater risk.[14] The intensification of border controls traps both States and migrants in "a vicious circle in which increasing numbers of border deaths lead to calls to 'combat' smuggling and increase border patrolling, which forces refugees and other migrants to use more dangerous routes using smugglers' services".[15]

III. Arbitrary deprivation of life in the context of mixed migration

A. Universal obligation to protect life without discrimination

14. The right not to be arbitrarily deprived of life is a foundational and universally recognized right, applicable at all times and in all circumstances, including during armed conflict or other public emergency. The right to life — a norm of *jus cogens* — is protected by international and regional treaties, customary international law and domestic legal systems.

15. Article 6 (1) of the International Covenant on Civil and Political Rights provides that "[e]very human being has the inherent right to life" and that no one "shall be arbitrarily deprived of his life." Article 26 entitles everyone to protection of this right "without any discrimination".

[13] "The European Union awards record drone contract", *The Maritime Executive*, 20 March 2017.

[14] See, for example, European Commission, "Fourth progress report on the partnership framework with third countries under the European agenda on migration", 13 June 2017.

[15] Hein de Haas, "Borders beyond control?", 7 January 2015.

16. Substantively, international law requires State agents to take "all reasonable precautionary steps to protect life and prevent excessive violence" (A/HRC/32/39, para. 75) by States, their agents and by non-State actors: States must protect and fulfil the right to life, including by exercising due diligence to prevent arbitrary deprivations of life by private actors.

17. Individuals are entitled not to be arbitrarily deprived of life on grounds "impermissible under international law, or under more protective domestic law provisions" (A/HRC/35/23, para. 29) while ""deliberate intent' on the part of the State is not required for a killing or a deprivation of life to be deemed 'arbitrary'" (ibid., para. 34).

18. Procedurally, whether committed by the State or by private actors, States must investigate all deaths thoroughly, independently and effectively, provide redress or reparations and ensure that no person acts with impunity. Failure to investigate is in and of itself a violation of the right to life.[16]

19. The right to life is further protected by the 1951 Convention Relating to the Status of Refugees and 1967 Protocol to the Convention, which impose on States the core principle of non-refoulement, now a rule of customary law: "No Contracting State shall expel or return ('refouler') a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion".

20. Prohibition of return to a place where individuals are at risk of torture and other ill-treatment is also enshrined in article 3 of the Convention against Torture. This absolute prohibition means that the fundamental right to be free from torture or other ill-treatment is respected even in cases where non-refoulement under refugee law may be circumscribed. Under international jurisprudence, States have an obligation "not to put a person in a position where he will or may suffer" such human rights violations at the hands of another State or non-State actors within that State.[17]

21. Both substantively and procedurally, the right to life of many refugees and migrants may be violated.

B. Unlawful killings by security officials, including border guards

22. A range of actors[18] have reported that State agents may be responsible, directly or in collusion with armed groups or criminal networks, for human rights violations against migrants, including violations of the right to life.

[16] See, e.g., European Court of Human Rights, Grand Chamber, *McCann and Others v. The United Kingdom*, application No. 18984/91, Judgment of 27 September 1995, para. 161; Inter-American Court of Human Rights, *Montero-Aranguren and Others (Detention Centre of Catia) v. Venezuela*, Judgment of 5 July 2006, para. 66; African Commission on Human and Peoples' Rights, general comment No. 3 on the right to life (article 4), November 2015, paras. 2 and 15; Human Rights Committee, general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant, paras. 15 and 18.

[17] See European Court of Human Rights, Plenary, *Soering v. The United Kingdom*, application No. 14038/88, Judgment of 7 July 1989, para. 82; European Court of Human Rights, Grand Chamber, *Hirsi Jamaa and Others v. Italy*, application. No. 27765/09, Judgment of 23 February 2012, para. 131 (Italy "knew or should have known" migrants would receive no protection in Libya); United Nations Committee against Torture, *J.H.A. v. Spain*, communication No. 323/2007, decision of 10 November 2008 (jurisdiction with State exercising control over person).

[18] United Nations agencies, regional investigatory bodies and non-governmental organizations.

23. In Libya, for example, the United Nations Support Mission in Libya (UNSMIL) reports widespread, gross human rights violations against migrants by armed groups, smugglers and traffickers, private employers, police, the Libyan Coast Guard and the Department for Combatting Illegal Migration. UNSMIL has reported that interceptions of migrant boats by Libyan coast guards have involved actions that may constitute arbitrary killings.[19] The International Criminal Court is considering "carefully examining the feasibility of opening an investigation into migrant-related crimes in Libya".[20]

24. In Mexico, the Inter-American Commission on Human Rights found the "extreme vulnerability" of migrants to be "one of the worse human tragedies in the region". The Commission also received reports of "multiple cases in which migrants are [...] murdered, disappeared" and that "in a considerable number of cases, State agents — members of the various police forces or personnel of the National Institute of Migration — have been directly involved in the commission" of these crimes and human rights violations.[21] Allegations of similar violations by the State, including unlawful killings, have been made against States along the world's migration routes, including in Central America, Egypt and the Sudan.[22]

C. Excessive use of force

25. Most frequently, arbitrary killings in the course of restricting migration arise as a result of excessive use of force by border control agents and other officials involved in migration control. Attempts by migrants to evade immigration control should be met with a response that is both necessary and proportionate.

26. International standards on the use of force in law enforcement, including immigration control, are well developed. A written "domestic legal framework" for the use of force must be in place (A/HRC/26/36, para. 47). Guidelines must mandate that lethal force is only legitimate "to save the life of a person or to protect a person from serious injury" (ibid., para. 58), that such force must be necessary and proportionate and that it cannot be used in a discriminatory fashion (ibid, paras. 59-74).

27. In particular, "Firearms should not be used except when a suspected offender offers armed resistance or otherwise jeopardizes the lives of others and less extreme measures are not sufficient to restrain or apprehend the suspected offender" (A/61/311, para. 38).The use of force should be gradual, starting at a low level and escalating only where necessary, as determined by the resistance offered by suspects (ibid., para. 41).

28. The basic tenant is that "lethal force may not be used intentionally merely to protect law and order or to serve other similar interests [...] In practice, this means that only the protection of life can meet the proportionality requirement where lethal force is used intentionally, and the protection of life can be the only legitimate

[19] United Nations Support Mission in Libya (UNMSIL) and Office of the United Nations High Commissioner for Human Rights (OHCHR), "Detained and dehumanized", 13 December 2016; see also S/2017/466 (final report of the Panel of Experts on Libya established pursuant to resolution 1973).

[20] International Criminal Court, "Statement of the ICC Prosecutor to the United Nations Security Council on the situation in Libya", 9 May 2017.

[21] Inter-American Commission on Human Rights, *Human Rights of Migrants and Other Persons in the Context of Human Mobility in Mexico*, OEA/Ser.L/V/II., Doc. 48/13 (2013) para. 5.

[22] Laurie Lijnders and Sara Robinson, "From the Horn of Africa to the Middle East: human trafficking of Eritrean asylum seekers across borders", *Anti-trafficking Review*, No. 2 (2013); Medecins Sans Frontieres, "Forced to flee Central America's northern triangle: a neglected humanitarian crisis", May 2017; Human Rights Watch, "'I wanted to lie down and die': trafficking and torture of Eritreans in Sudan and Egypt", 11 February 2014.

objective for the use of such force. A fleeing thief who poses no immediate danger may not be killed, even if it means that the thief will escape" (A/HRC/26/36, para. 72).

29. Similarly, irregularly crossing a border, hiding from border guards, throwing stones or escaping capture or interception are not acts that ought to be met with deadly force.

30. Casualties as a result of excessive use of force by border guards, including use of lethal force, have been alleged in Egypt, Spain, Turkey, Yemen and other countries. For instance, between 2007 and 2010, Egyptian border guards allegedly shot and killed people attempting to leave Egypt and flee into Israel, and military forces reportedly shot at a boat attempting to leave Yemen, leading to the deaths of dozens of people.[23]

31. At the borders of the United States, 50 deaths resulting from the use of lethal force by Customs and Border Protection agents have allegedly occurred since 2010, nine of which were in response to rock throwing. This does not include instances of the use of force not resulting in death.[24] In 2014, Customs and Border Protection revised its use of force guidelines to mandate proportionate force, including in response to rock throwing. Possibly as a result, from 2012 to 2016, the use of firearms by border patrols has more than halved (from 59 to 27 incidents).[25] Nevertheless, gaps remain: investigations into deaths during apprehensions or while in custody remain largely shrouded in secrecy without sufficient participation by civil society and impartial experts. To date, it appears that one officer has been criminally prosecuted in federal court[26] and two officers have been charged in State court.[27]

32. The use of non-lethal force by border control agents may also result in arbitrary deprivation of life. For instance, 15 migrants drowned off a Spanish enclave in North Africa on 6 February 2014 after agents of the Spanish Guardia Civil fired rubber bullets at and used teargas on migrants attempting to swim to Ceuta from Morocco. In January 2017, under pressure from the families of the victims, a higher court in Ceuta decided to reopen the investigation into the deaths, which was closed in 2015.[28]

33. "Push-back" measures, in addition to violating the principle of "non-refoulement," may also amount to excessive use of force whenever officials place refugees or migrants intentionally and knowingly in circumstances where they may be killed or their lives endangered because of the environment. This may include, for instance, "push-back" of Rohingyas and Bangladeshis on the high seas

[23] See for example: UNHCR,"UNHCR condemns refugee deaths off Yemen, calls for inquiry", press release, 20 March 2017; Human Rights Watch, "Turkey: border guards kill and injure asylum seekers," 10 May 2016; UNMSIL and OHCHR, "Detained and dehumanized"; Gramer, R., "Apache Helicopter Guns Down Boat Full of Somali Refugees Fleeing Yemen", *Foreign Policy* (The Cable), 17 March 2017.

[24] American Civil Liberties Union, "Fatal encounters with CBP", fact sheet, 26 April 2017.

[25] United States of America, Department of Homeland Security, "CBP border security report" (https://www.cbp.gov/sites/default/files/assets/documents/2016-Dec/CBP-fy2016-border-security-report.pdf.).

[26] See brief of amici curiae submitted by former officials of the United States. Customs and Border Protection Agency in support of petitioners in the case of *Jesus C. Hernandez and Others v. Jesus Mesa Jr.* (9 December 2016) before the United States Court of Appeals for the Fifth Circuit.

[27] See complaint submitted by family members in support of the petitioner in the case of *Anastasio Hernandez-Rojas v. United States* (March 2016) before the Inter-American Commission on Human Rights, March 2016.

[28] Juzgado de Primera Instancia e Instrucción nº 6 (Ceuta), No. 0000123 /2014, 15 October 2016.

without water or food, or interdiction of disembarkation.[29] This may also include the use of "lateral repatriation" of Mexican males by United States agents to a different part of the border from which they crossed, possibly to areas controlled by criminal gangs where they have no contacts.[30] This includes the 2013 policy of the Government of Australia of intercepting boats to direct them back to the country from where the vessel departed (see A/HRC/35/25/Add.3). Such practices raise serious concerns: they may intentionally put lives at risk, given that security officials know, but disregard, the reality that returnees may be victims of brutal crimes when returned under these circumstances.[31] This may amount to excessive use of force by proxy; it is disproportionate and unnecessary.

34. Deterrence may also be enforced through the "weaponization" of the terrain or the environment to deter people on the move. Examples include the alleged practice of "chase and scatter", or leaving people in a hostile environment without supplies.[32] Such practices may also amount to excessive use of force.[33]

35. States can effectively control their borders in a rights-based and protection-sensitive manner.[34] This includes abiding by the principle of non-refoulement and international norms on the use of lethal force as well as the rights to life and bodily integrity in the implementation of border policies.

D. States aiding and assisting extraterritorial killings and deprivation of life

36. To avoid mass migration across their borders, some States are relying on the policy of extraterritoriality to stop migrants before they reach their territory or come within their jurisdiction or control.[35] Such policies may include assisting, funding or training agencies in other countries to arrest, detain, process, rescue or disembark and return refugees or migrants. These policies raise serious concerns when the recipient agencies or States are alleged to be responsible for serious human rights violations, including violations of the right to life.

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[29] See joint urgent appeal communication (UA IDN 5/2015) dated 21 May 2015, from special rapporteurs of the Human Rights Council/OHCHR. In response, a task force to harmonize regional responses in accordance with international maritime and protection obligations has been set up. In December 2016, Indonesia issued a presidential regulation, which provides for the rescue and disembarkation of refugees in danger, and their detention.

[30] Jeremy Slack and others, "The Geography of Border Militarization: Violence, Death and Health in Mexico and the United States", *Journal of Latin American Geography*, vol. 15, No. 1 (March 2016); Hannah Hafter and others, "Shakedown: how deportation robs immigrants of their money and belongings" (No More Deaths, 2014).

[31] Inter-American Commission on Human Rights, *Human Rights of Migrants and Other Persons*, paras. 129-132.

[32] Abuse Documentation Working Group, "Part I: Apprehension methods: the consequences of chase and scatter in the wilderness", in *Disappeared: How the US Border Enforcement Agencies are Fueling a Missing Persons Crisis* (Tucson, Arizona, La Coalicion de Derechos Humanos and No More Deaths, 2016).

[33] For an opposite view, see the position of the State and the concurring opinion of President Clare K. Roberts in the petition submitted in the case of *Victor Nicolas Sanchez and Others. (Operation Gatekeeper) v. United States*, report No. 104/05, petition 65/99 (27 October 2005). For an opposite view, see Inter-American Commission on Human Rights.

[34] For instance OHCHR, "Recommended principles and guidelines on human rights at international borders" (Geneva, 2014).

[35] See press statement following discussions on the Central Mediterranean during the informal meeting of justice and home affairs ministers, 6 July 2017, Tallin, Estonia (www.consilium.europa.eu/en/press/press-releases/2017/07/pdf/estonian-presidency-press-statement-on-central-med/).

37. By financing and training the very agencies that commit these abuses, funding States are potentially aiding and assisting loss of life.[36] Article 15 of the draft articles on the responsibility of States for internationally wrongful acts of the International Law Commission sets forth the appropriate standards:

> "A State which aids or assists another State in the commission of an internationally wrongful act by the latter is internationally responsible for doing so if: (a) that State does so with knowledge of the circumstances of the internationally wrongful act; and (b) the act would be internationally wrongful if committed by that State."[37]

38. Courts have indicated that this provision expresses customary international law.[38] In accordance with article 16 of the draft articles on responsibility of States for internationally wrongful acts, the aid or assistance does not need to be "essential" to the performance of the unlawful acts, but it must "contribute [...] significantly to that act'.[39] Moreover, the State providing aid must have done so with the "knowledge of the circumstances of the internationally wrongful act.[40]

39. All assistance in the context of entry control must be viewed in this light. While States may seek to portray their programmes as humanitarian, they must also examine whether they are in fact aiding and assisting in the arbitrary deprivation of life. Funding initiatives to transit countries where human rights violations are endemic must be aimed at enhancing protection and must not aid or contribute to known violations in the name of migration or border control.[41]

40. In some situations, disregard for the human rights of migrants may trigger concerns under articles 40 and 41 of the draft articles on responsibility of States for internationally wrongful acts: there is a "gross and systematic failure" by the responsible State to fulfil its obligation to protect life, and as a result, States must "cooperate to bring an end through lawful means" to this breach. In the face of gross, systemic failure of human rights, other States must not "render aid or assistance in maintaining that situation".[42] Given the situation in some of these transit States and countries of origin, where migrants or refugee are subject to systemic abuse, it seems appropriate to call for destination States to stop providing funding and equipment for migration control.

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[36] Thomas Gammeltoft-Hansen and James C. Hathaway, "Non-refoulement in a world of cooperative deterrence", *Columbia Journal of Transnational Law*, vol. 53, No. 2 (2015) (providing a complete analysis of aiding and assisting as a basis for responsibility).

[37] International Law Commission, draft articles on responsibility of States for internationally wrongful acts; see resolution 56/83, annex, and A/56/10, chap. IV, sect. E.

[38] Thomas Gammeltoft-Hansen and James C. Hathaway, "Non-Refoulement in a World of Cooperative Deterrence", University of Michigan Law School, Law and Economics Working Papers, vol. 8, No. 1, 2014, and cases cited therein.

[39] Resolution 56/83, annex, article 16.

[40] For example, there are repeated official reports of massive human rights violations committed in Libya, including by the Libyan Coast Guard and the Department for Combating Illegal Migration.

[41] See, for example, European Court of Human Rights, *Hirsi Jamaa and Others v. Italy*, para. 131; see also Gammeltoft-Hansen and Hathaway, "Non-refoulement in a world of cooperative deterrence".

[42] Resolution 56/83, annex, articles 40 and 41; *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970), Advisory Opinion, I.C.J. Reports 1971*, para. 118.

E. Killings by non-State actors, including smugglers and traffickers

41. Death at the hands of criminal networks and armed groups is one of the greatest risks to migrants. As reported by the Inter-American Commission on Human Rights, the "fragile institutional infrastructure, corruption by public officials, and the impunity that attends crimes committed against migrants in an irregular situation have nurtured the growth of criminal activity and human rights violations" committed against them.[43] This impunity for horrific violations of the right to life exists throughout the world.[44]

42. The Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children supplementing the United Nations Convention against Transnational Organized Crime (the Palermo Convention) of December 2000 defines the smuggling of migrants as the unauthorized movement of individuals across national borders for the financial or other material benefit of the smuggler. The purpose of trafficking is the exploitation of the migrants, during and past the point of migration. It can occur solely within a State's borders and requires exploitation of the individual.[45] While consent is immaterial in the case of trafficking, smuggling assumes voluntary participation by the migrant, even though the migrant is not liable for criminal prosecution.[46]

43. Smuggling and trafficking lie at the core of the mass movement of people.[47] Operations vary widely in size, from small, local efforts to transnational criminal networks. Smugglers, like traffickers, may coerce and kill. This is acknowledged in the Protocol to the Palermo Convention, which establishes that circumstances that "endanger, or are likely to endanger, the lives or safety of the migrants concerned; or that entail inhuman or degrading treatment, including for exploitation, of such migrants" constitute aggravating circumstances to the criminal offences connected with smuggling.

44. There are countless instances of such aggravated smuggling. For instance, from mid-2010 to 2014, Eritrean refugees fell prey to local Sudanese and Egyptian smugglers, who kidnapped, sold and subjected them to horrific torture to extort large sums of money from their relatives. A large number of the refugees did not survive their treatment.[48] In Mexico, some organized cartels involved in smuggling also abduct for ransom, and rape, torture and kill their victims.[49] Similar violations are reported in Libya, where armed militias are "industriali[zing]" smuggling,

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[43] Inter-American Commission on Human Rights, *Human Rights on Migrants and Other Persons*, para. 104; see also Washington Office in Latin America, Latin America Working Group Education Fund and Kino Border Initiative, "Situation of impunity and violence in Mexico's northern border region", March 2017.

[44] See, for example, Mirjam van Reisen, Meron Estefanos and Conny Rijken, "Human trafficking in the Sinai: refugees between life and death" (Brussels, Europe External Policy Advisors, Tilberg University, 2012).

[45] See United Nations, *Treaty Series*, vol. 2237, No. 39574.

[46] Ibid., vol. 2241, No. 39574, articles 3(a) and 5.

[47] The European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex), *Risk Analysis for 2017* (Warsaw, 2017); Tuesday Reitano and Others, "Integrated responses to human smuggling from the Horn of Africa to Europe" (Global Initiative against Transnational Crime, Geneva, May 2017).

[48] See, for example, Human Rights Watch, "I wanted to lie down and die".

[49] Inter-American Commission on Human Rights, *Human Rights on Migrants and Other Persons*, para. 102.

making it more "efficient and ruthless",[50] or in Thailand, Malaysia and on the high sea in the Bay of Bengal and the Andaman Sea.[51]

45. Investigating smuggling "with homicides" raises many difficulties, including the transnational nature of the crimes and establishing causal links between death and specific actions. In 2016, the Palermo prosecutor initiated 38 procedures for smuggling involving 150 known individuals and 157 procedures where the identity of the smuggler(s) could not be ascertained. Only two included the additional charge of homicide.[52] United States border guards face similar difficulties in investigating cases of "aggravated smuggling".[53]

46. In the case of a number of people arrested in Sicily in 2016 and 2017 on the charge of smuggling migrants at sea, many were migrants themselves, who had either been forced at gunpoint by coastal smugglers to steer the boats they were being smuggled in, or had agreed to do so in exchange for free passage.[54] Even in cases where deaths occur, those actually steering the boat may not be responsible. For instance, in September 2016, a court dismissed murder charges against two migrants who steered a rubber dinghy from Libya to Italy (the boat deflated and 12 persons died) because the two men "had no other choice but to commit the crimes of which they are accused, in order to save their own lives from a situation beyond their control".[55]

47. Investigation and prosecution tend to be most successful in cases where the authorities can establish jurisdiction over the unlawful deaths and the killer remains in the territory of the prosecuting State,[56] or where there is strong cooperation between concerned countries.[57] Such cooperation is not always easy or forthcoming owing to the difficulties presented by administrative and legal red tape, lack of witnesses and corruption and collusion between officials and smugglers, including those involved in homicide.

48. On the other hand, international standards are clear and applicable to transborder unlawful death:[58] a State's responsibility to conduct an effective investigation extends beyond its borders, including by cooperating and securing relevant evidence from other States, or by providing it. There are international and regional mechanisms and bodies that support and strengthen international cooperation for a range of transnational crimes, including smuggling and trafficking.[59] "Aggravated smuggling" ought to be prioritized and the object of dedicated resources and renewed commitments on the part of intergovernmental bodies and Member States, including towards effective cooperation.

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[50] Mark Micallef, "The Human Conveyor Belt: trends in human trafficking and smuggling in post-revolution Libya", The Global Initiative Against Transnational Organized Crime, March 2017.

[51] Brian and Laczko, *Fatal Journeys*.

[52] Interviews, Palermo, May 2016.

[53] Ibid.

[54] Ibid.

[55] https://www.thelocal.it/20160908/palermo-judge-acquits-involuntary-migrant-smugglers.

[56] In 2016, a Tunisian migrant-smuggler was sentenced to 18 years in jail for the manslaughter of about 700 people who were killed in April 2015 after a collision between his overcrowded fishing boat and a Portuguese merchant ship that was attempting a rescue of the passengers.

[57] For instance, the Hungarian police has charged eight suspects for the deaths of 71 migrants and refugees found suffocated in a truck in Austria in 2015.

[58] See, for example, Inter-American Court of Human Rights, *La Cantuta v. Peru*, Judgment of 29 November 2006, para. 160; European Court of Human Rights, *Rantsev v. Cyprus and Russia*, application No. 25965/04, Judgment of 7 January 2010, para. 245.

[59] Primary among them is the United Nations on Drugs and Crime. See for instance its Model Law against the smuggling of migrants, 2010; its various training modules and expert meetings on smuggling investigations; and provision of technical assistance to States.

49. Along with the prioritization of "aggravated smuggling", a developmental approach to smuggling may also have an impact on unlawful death. Experts point to the example of the town of Zuwarah in Libya, once one of the main departure points for Italy. Three shipwrecks, with bodies washing ashore, ignited local opposition to smuggling, reinforced by the intense negative focus on the town from the international community.[60] Locals continue to prohibit smuggling to this day, suggesting alternative models of engagement with transit countries.

F. Investigations of arbitrary deprivations of life

50. The unlawful deaths of refugees and migrants involving State responsibility or non-State actors too rarely trigger a thorough investigation. Instead deaths seem to be tolerated as an assumed risk of irregular travel. This report has highlighted examples of investigations and prosecutions in Italy, Spain, Thailand and the United States, some of which have resulted in convictions, particularly when the killings and the smuggling were linked to trafficking.[61] However, in view of the number of unlawful deaths reported on a yearly basis (admittedly far below the reality), these investigations and convictions barely scratch the surface of the tragedy.

51. The consequences of non-investigation are extremely serious, including violation of the right to life, impunity and the absence of reparations and closure for the families. Non-investigation also contributes to continuing policies and practices that may amount to excessive use of force or to lack of due diligence in addressing preventable and foreseeable deaths. Failure to investigate such unlawful casualties also restricts the understanding of smuggling and migratory patterns.

52. The duty to investigate is central to upholding the right to life.[62] When applied to the unlawful deaths in the context of mass movements of people, including through smuggling or trafficking, some international standards are particularly important:[63]

(a) The duty is heightened in situations involving State actors, including allegations of excessive use of force;

(b) It extends to deaths that occur at the hands of non-State actors, encompassing persons unknown[64] as well as to unlawful deaths resulting from unsafe conditions, self-inflicted harm or risky activity;[65]

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[60] Mark Micallef, "The Human Conveyor Belt: trends in human trafficking and smuggling in post-revolution Libya", pp. 11 and 12 (Geneva, Global Initiative against Transnational Organized Crime, 2017).

[61] For examples of data on trafficking convictions, see United States, Department of State, "Trafficking in persons report" (June 2017).

[62] See, for example, European Court of Human Rights, Grand Chamber, *McCann and Others v. The United Kingdom*, para. 161; Inter-American Court of Human Rights, *Montero-Aranguren and Others. (Detention Center of Catia) v. Venezuela*, para. 66; African Commission on Human and Peoples' Rights, general comment No. 3, paras. 2 and 15; Human Rights Committee, general comment No. 31, paras. 15 and 18; *The Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016)* (United Nations publication, Sales No. E.17.XIV.3).

[63] For a thorough analysis of the European jurisprudence, see, T. Spijkerboer, "Moving migrants, States and rights: human rights and border deaths", *Law and Ethics of Human Rights*, vol. 213, No. 2 (2013).

[64] See, for example, Human Rights Committee, general comment No. 31, para. 10; African Commission on Human and Peoples' Rights, general comment No. 3. See also European Court of Human Rights, Grand Chamber, *Hassan v. The United Kingdom*, application No. 29750/09, Judgment of 16 September 2014, para. 78.

[65] European Court of Human Rights, Grand Chamber, *Öneryıldız v. Turkey*, application No. 48939/99, Judgment of 30 November 2004, paras. 70-74; and European Court of Human Rights, Third Section, *Keenan v. The United Kingdom*, application No. 27229/95, Judgment of 3 April 2001.

(c) Investigations include identifying the dead or missing, and determining the cause of death;[66]

(d) A formal complaint is not necessary nor does a body need to be found;[67]

(e) Family members of deceased refugees and migrants have the right to take part in an investigation into an unlawful death, and to obtain available information on the causes of death: they also have the right to equal and effective access to justice; to adequate, effective and prompt reparation (E/CN.4/1998/43, paras. 68-75 and A/HRC/22/45); and to recognition of their status before the law (A/HRC/19/58/Rev.1, chap. II, sect. H, para. 42).[68]

53. This report suggests that some practices at borders, linked to the implementation of deterrence policies, may amount to excessive use of force. While individual deaths should be investigated on a case-by-case basis to ascertain the liability of individual officials, evidence implies that these are more than unconnected incidents. Although there have been inquests into individual deaths, the sheer number of suspicious deaths itself may highlight a series of connected breaches, hinting at official tolerance or policies that should also be the object of investigation.[69] This obligation to investigate the broader policy context may also be deduced from State's obligation to uphold the right to know the truth (see E/CN.4/5/102/Add.1, principles 2-5; E/CN.4/2004/88; and E/CN.4/2006/91).[70]

54. The principle of universal jurisdiction widens the scope of national jurisdiction to any act that is deemed to be of universal concern. These include genocide, crimes against humanity and war crimes, but may also include unlawful killings when closely related to human trafficking, torture and enforced disappearances (see A/71/111). With regard to the scope and application of universal jurisdiction on the basis of national legal rules, applicable international treaties and judicial practice,[71] the 2015 Madrid-Buenos Aires Principles of Universal Jurisdiction reinforces the understanding of the ratione materiae of universal jurisdiction as including extrajudicial executions as a crime subject to universal jurisdiction. The application of the principle of universal jurisdiction, in the context of the unlawful killings of refugees and migrants, could address some of the issues identified in the present report.

55. Crimes that "threaten the peace, security and well-being of the world"[72] may be investigated by the International Criminal Court. Should the jurisdictional requirements of the International Court be met, investigations into crimes against

[66] *The Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016)* (United Nations publication, Sales No. E.17.XIV.3).

[67] See resolution 70/175 (United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)), rule 71(1); European Court of Human Rights, Grand Chamber, *Varnava and Others v. Turkey*, application Nos. 16064/90, 16065/90, 16066/90, 16068/90, 16069/90, 16070/90, 16071/90, 16072/90 and 16073/90, Judgment of 18 September 2009.

[68] United Nations, *Treaty Series*, vol. 2716, No. 48088 (International Convention for the Protection of All Persons from Enforced Disappearance), article 24 (6).

[69] European Court of Human Rights, *Ireland v. The United Kingdom*, application No. 5310/71, Judgment of 18 January 1978.

[70] See, for example, International Covenant on Civil and Political Rights, article 2 (resolution 2200 A (XXI), annex) and International Convention for the Protection of All Persons from Enforced Disappearance, art. 24 (resolution 61/177, annex). See also Inter-American Court of Human Rights, *Rochela Massacre v. Colombia*, Judgment of 11 May 2007, para. 195; and *Bámaca-Velásquez v. Guatemala*, Judgment of 25 November 2000, para. 197.

[71] Available from http://en.fibgar.org/proyectos/principles-of-universal-jurisdiction.

[72] United Nations, *Treaty Series*, vol. 2187, No. 38544 (Rome Statute of the International Criminal Court), third para. of the preamble.

refugees and migrants by State officials and non-State actors[73] ought to be opened. Such investigations may not only curb crimes where they are occurring, they may also prevent or undermine international support, in the name of migration control, to the States or agencies being investigated, or stop or slow further propagation of unlawful practices elsewhere.

IV. Search, identify, and trace

A. Obligation to protect: search and rescue operations

56. Under their obligation to protect, States must act with due diligence to protect individuals against actions by non-State actors that may infringe on their right to life.[74] As with all other human rights principles, the responsibility to protect and due diligence must be implemented without discrimination, including on the basis of migration status.

57. The duty to prevent "encompasses all those measures of a legal, political, administrative, and cultural nature that ensure the safeguard of human rights, and [requires] that any possible violation of these rights is considered and treated as an unlawful act, which, as such, may result in the punishment of the person who commits it, as well as the obligation to compensate the victims for the harmful consequences".[75]

58. The duty is violated whenever States fail to act with due diligence, which requires an assessment of: (a) how much the State knew or should have known; (b) the risks or likelihood of harm; and (c) the seriousness of the harm (see A/HRC/35/23). Human rights doctrine thus acknowledges that the positive obligations should not be interpreted so as to impose a disproportionate burden on States'.[76]

59. Governments around the world know that people will die attempting to cross dangerous border regions, including deserts, rivers and seas. Here, the conflict between human rights and migration control could not be clearer: migrants are supposed to be deterred from crossing a border because they might die. It is impossible to protect the right to life while simultaneously attempting to deter entry by endangering life.[77] Nor is it acceptable to discourage exit out of countries where lives are endangered on the grounds that doing so saves lives from the dangers of border crossing: that is simply permitting a more secret death elsewhere.[78] States

[73] The jurisprudence of the International Criminal Court supports the proposition that non-State actors may be liable for prosecution for carrying out crimes against humanity provided that they meet the requirements of constituting "an organization": International Criminal Court, "Situation in the Republic of Kenya", pursuant to article 15 of the Rome Statute, para. 93, cited by Open Society Foundations, *Undeniable Atrocities: Confronting Crimes against Humanity in Mexico* (New York, 2016).

[74] See Human Rights Committee, general comment No. 31 (2004); see CCPR/C/21/Rev.1/Add.13, para. 8.

[75] Inter-American Court of Human Rights, *González et al. ("Cotton Field") v. Mexico*, Judgment of 16 November 2009, para. 252.

[76] Council of Europe, *Osman v. The United Kingdom*, application No. 87/1997/871/1083, Judgment of 28 October 1998, para. 116.

[77] One example of a policy premised on deterrence is the 2012 annual report of the Houston Police Department.

[78] United States Customs and Border Protection, "CBP addresses humanitarian challenges of unaccompanied child migrants", 22 June 2017.

must take those "measures within the scope of [its] powers which, judged reasonably, might have been expected to avoid [the] risk" to life.[79]

60. There is a range of positive examples of official search and rescue operations, which undoubtedly save many lives.[80] There is also clear evidence that search and rescue operations deliver the best results in terms of saving migrants lives when they have multi-stakeholder leadership, involving non-governmental organizations alongside State agents, grounded in cooperation and mutual respect, while acknowledging differences. In general, however, far more needs to be done to include civil society in search and rescue work, as many non-governmental organizations have invaluable skills and access to the migrant community.[81]

61. Protection on the high seas raises specific challenges, as a State's human rights obligations are typically bounded by its territorial limits or its jurisdiction or control over an area or person.[82] However, even though such areas are outside the territorial jurisdiction of coastal States, the high seas impose another duty, the duty to provide an "adequate and effective" search and rescue service, as found in three Maritime Conventions.[83] Rescue must be provided "regardless of the nationality or status" of the person in distress or the "circumstances in which that person is found".[84] The intent of these treaties is to create a system to rescue all vessels in distress.

62. When deaths on the Central Mediterranean migration routes surged, Italy appropriately responded by launching "Mare Nostrum", a search and rescue operation credited with saving thousands of lives. However, without the financial and political support of the States members of the European Union, Italy abandoned the programme in October 2014. Subsequently, the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex) launched "Operation Triton" to support Italy with border control, surveillance and search and rescue and "Operation Sophia", whose main objective is to disrupt the business model of criminal networks. These operations have never matched the success achieved by Mare Nostrum in preventing casualties, in part because their primary mission is not search and rescue but border control.

63. Vessels operated by a number of humanitarian non-governmental organizations play a major role in rescue operations, alongside States interventions and other private vessels. The vessels operated by non-governmental organizations station themselves at the edge of Libya's territorial waters to save lives, as smugglers are now using dinghies, which easily rip or capsize. The high number of casualties among migrants in 2017 indicates, however, that these efforts are insufficient.

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[79] Council of Europe, *Osman v. the United Kingdom*, para. 116.

[80] See, for example, United States Department of Homeland Security, United States Customs and Border Protection, "Search and rescue efforts for FY 2015", 30 June 2016. This includes as well an operation launched by the Italian Government, Mare Nostrom.

[81] This includes for instance the United States Customs and Border Protection Missing Migrants Project: it cooperates with non-governmental organizations, which are able to operate water stations and medical stations in public lands, and to interface with families of missing migrants, without interference: interviews, July 2017; see also Police Executive Research Forum, *Responding to Migrant Deaths Along the Southwest Border: Lessons from the Field* (Washington, D.C., 2016).

[82] Human Rights Committee, general comment No. 31 (2004), CCPR/C/21/Rev.1/Add.13, para. 10.

[83] United Nations, *Treaty Series*, vol. 1833, No. 31363, art. 98 (United Nations Convention on the Law of the Sea); vol. 1184, No. 18961, regulation 15 (International Convention for the Safety of Life at Sea, 1974); and vol. 1405, No. 23489, annex, chap. 2.1.1 (International Convention on Maritime Search and Rescue).

[84] United Nations, *Treaty Series*, vol. 1405, No. 23489, annex, chap. 2.1.10 (International Convention on Maritime Search and Rescue).

Moreover, non-governmental organizations are under increasing pressure from the European Union, which is undermining, if not preventing, their efforts.[85]

64. The European Union and its member States have put in place an extensive surveillance system focused on security and border patrol, which now includes the North Atlantic Treaty Organization (NATO).[86] Having chosen to provide security in the Mediterranean, the States members of the European Union cannot escape their obligation to protect. They are exercising sufficient functional control to be subject to the one obligation inextricably linked to ocean surveillance: an adequate and effective system of rescue.[87] This includes the implementation of the principle of non-refoulement,[88] including to unsafe third countries, the protection of refugees and migrants, including against preventable and foreseeable loss of lives, and support to ships operated by non-governmental organizations.

B. Dignity in death

65. Large numbers of refugees and migrants die or go missing every year at both land and sea borders. For the most part, the names of the missing and dead are unknown; their families have not been traced; and where bodies have been found, they are too often buried in unnamed graves. This represents one of the great untold tragedies of this catastrophe, one that triggers the responsibility of States to provide dignity and accountability in death.[89]

1. Tracing and the collection of data on the dead and missing migrants

66. States are required to take all reasonable steps to identify the deceased[90] and to determine the cause of death. This obligation forms part of the procedural duty to investigate deaths.[91] In addition, responsibilities can also be drawn from other rights, including: the prohibition of cruel, inhuman and degrading treatment or punishment; the right to equality; the right to family life; the prohibition of discrimination; the right to property; and the right to legal personality.[92] Furthermore, the treatment of the dead and the concept of dignity in death has a long and developed history in international humanitarian law.

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[85] See, example, the "Code of conduct for NGOs involved in migrants' rescue operations at sea", proposed by the Italian Government and the European Union in July 2017.

[86] Jens Stoltenberg, Secretary-General of NATO, press conference, 13 March 2017.

[87] It has been argued that functional jurisdiction could be extended to coastal States that receive a distress call from outside their search and rescue region: see Efthymios Papastavridis, "Rescuing migrants at sea and the law of international responsibility", *Human Rights and the Dark Side of Globalisation: Transnational Law Enforcement and Migration Control*; Thomas Gammeltoft-Hansen and Jens Vedsted-Hansen, eds. (New York, Routledge, 2017). This functional jurisdiction should be co-extensive with the authority member States of the European Union and NATO have assumed over the entire region and should extend to providing an adequate system of search and rescue.

[88] The principle of non-refoulement applies at the European Union external borders as well to Frontex: see European Union Agency for Fundamental Rights, *Scope of the Principle of Non-Refoulement in Contemporary Border Management: Evolving Areas of Law* (Luxembourg, Publications Office of the European Union, 2016).

[89] Last Rights project, "The dead, the missing and the bereaved at Europe's international borders: proposal for a statement of the international legal obligations of States", May 2017.

[90] International Committee of the Red Cross, United Nations Guiding Principles on Business and Human Rights, Commentary on Article 3 (2009).

[91] European Court of Human Rights, *Cyprus v. Turkey*, application No. 25781/94, Judgment of 10 May 2001; *McCann and Others v. The United Kingdom; Mahmut Kaya v. Turkey*, application No. 22535/93, Judgment of 28 March 2000.

[92] See Last Rights project, "The dead, the missing and the bereaved at Europe's international borders".

67. Following humanitarian disasters, international norms have also been established which provide for tracing missing persons and recording the dead, and such norms have been used by those working in the field of migration responses.[93] Standard procedures should include a method for: (a) removing dead bodies; (b) preserving DNA, fingerprints and personal belongings; (c) identifying human remains, including forensic techniques; (d) notifying relatives; (e) storage of data where future identification may be necessary; and (f) respectful burial. Such a process would assist with the collection of information that could benefit our understanding of the humanitarian situation.

68. Following the Indian Ocean earthquake and tsunami in 2004, the Government of Thailand was able to identify most of the bodies. Those that remained unidentified, which were presumed to be the bodies of undocumented migrants, were tagged and catalogued with microchips so that future identification could be carried out.[94]

69. Other best practices include those of Italy's national Commission for Missing Persons and its team of forensic pathologists and anthropologists, who undertook systematic investigations into three Lampedusa shipwrecks that took place between 2013 and 2015.[95] The Pima County Office of the Medical Examiner in Arizona in the United States has treated all migrant deaths as worthy of investigation and best practices, with the support of forensic anthropologists. The non-governmental organization Operation Identification locates, identifies and repatriates remains found in Texas.

2. Family rights

70. Every year the mothers of missing migrants from El Salvador, Guatemala, Honduras and Nicaragua follow the path that their sons and daughters took to Mexico City, in search of their children or information on their whereabouts. They carry photographs of their loved ones on placards. This movement is known as the Caravana de Madres Migrantes Centroamericanas. In Tunisia, the families of more than 300 migrants who went missing on their journey to Italy in 2011 have waged a five-year campaign to trace their loved ones.[96] Six of these families were eventually given visas to travel to Italy for an exchange of digital fingerprints.[97] In Lampeduza, there is a yearly commemoration to remember the migrants who lost their lives in the 2103 shipwreck. In Italy there is an annual "Day of Remembrance for the victims of Immigration" on 3 October. These examples of communities and families seeking truth, memory and closure should be supported and emulated by other States.

71. The loss of a loved one, or the pain of not knowing what happened to them, can have an agonizing effect on a family. As noted by the Inter-American Court of Human Rights in its 2013 report, "[k]nowing the whereabouts of the disappeared migrants or locating the bodies of those who perished is of the utmost importance to

[93] Pan American Health Organization (PAHO) and World Health Organization (WHO), *Management of Dead Bodies in Disaster Situations*, Disaster Manuals and Guidelines Series No. 5 (Washington, D.C., 2004).

[94] Huma Ali and others, "Recovery and identification of the missing after disaster: case studies, ethical guidelines and policy recommendations" (2011), p. 23.

[95] Brian and Laczko, eds., *Fatal Journeys*, p. 43; and Patrick Kingsley, "Italian navy recovers ship that sank with over 800 people on board", *The Guardian*, 29 June 2016.

[96] Brian and Laczko, eds., *Fatal Journeys*, vol. 2, p. 60.

[97] Federico Oliveri, "'Where are our sons?': Tunisian families and the repoliticization of deadly migration across the Mediterranean Sea", in Lynda Mannik, ed., *Migration by Boat: Discourses of Trauma, Exclusion, and Survival* (New York, Berghahn Books, 2016).

their families, as it enables them to bury their loved ones according to their beliefs, and get closure to [their] mourning."[98]

72. Families have the right to participate in investigation, to reparation and to know the truth about the circumstances of death and location of the remains of their family member(s) (A/HRC/21/46, para. 54).[99] They also have specific rights in relation to human remains. When the identity of a deceased person has been determined, States should inform relatives immediately and deliver a notification of death in an accessible manner. Upon completion of investigation procedures, human remains and possessions of the deceased should be returned to family members.

73. These requirements are not always easy in practice. Families may require visas which may not always be made available. Additionally, foreign jurisdictions and institutions can often be difficult for family members to navigate without proper assistance.

3. Burial

74. States have several obligations with regard to the care of human remains, including the collection of bodies, the identification of the dead, investigation of the cause of the death, the return of the remains to families and the provision of an appropriate burial.[100] States are under a duty to issue a death certificate, a document of crucial legal importance to the families of the deceased.[101]

75. Where repatriation or the return of remains to family members or next of kin is impossible, States are obliged to provide a dignified and respectful burial, and to give due regard to the religious and cultural traditions of families, in cases where they are known.[102]

76. Families have a right to know the location of a relative's burial, meaning that gravesites should be marked and recorded. Families may be identified or come looking for their loved ones at a later stage, and therefore it is important that a record of burial is kept for future identification. Families also have a right to visit the grave.[103]

77. In spite of the practical and political difficulties, local and national officials attempt to provide those who have died with dignified burials and to put in place a system for future identification. Such examples include Dogancay Cemetery in Izmir, Turkey,[104] a new Muslim cemetery in Kato Tritos, Lesbos, Greece,[105] the

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[98] Inter-American Commission on Human Rights, *Human Rights on Migrants*.

[99] European Court of Human Rights, *Kelly and Others v. The United Kingdom*, application No. 30054/96, Judgment of 27 September 2001.

[100] Last Rights project, "The dead, the missing and the bereaved at Europe's international borders"; International Committee of the Red Cross (ICRC), conference to review the management and identification of dead migrants in the Mediterranean: the experience of Mediterranean countries, Milan, Italy, 30 October and 1 November 2013, and "Missing People, DNA Analysis and Identification of Human Remains" (Second edition, 2009); see also A/CN.4/L.871 (draft articles on the protection of persons in the event of disasters).

[101] Article 129 of the Fourth Geneva Convention requires that '[d]eaths of internees shall be certified in every case by a doctor, and a death certificate shall be made out, showing the causes of death and the conditions under which it occurred.'

[102] European Court of Human Rights, "Article 9: freedom of thought, conscience and religion" (2015); see also Council of Europe, "Additional Protocol to the Convention on Human Rights and Biomedicine concerning Transplantation of Organs and Tissues of Human Origin", European Treaty Series, No. 186 (2002).

[103] European Court of Human Rights, *Sabanchiyeva and Others v. Russia*, application No. 38450/05, Judgment of 6 June 2013.

[104] Brian and Laczko, eds., *Fatal Journeys*, p. 59.

[105] Mediterranean Missing, "Missing migrants: management of dead bodies in Lesbos", Greece, country report (August 2016).

cemetery in Palermo, Italy, and Castellammare cemetery in Trapani province in Sicily.[106]

78. In 2008, a memorial on the island of Lampeduza was dedicated to the thousands of migrants who had died or who had gone missing at sea trying to reach Italy, and whose names and exact places of death are unknown. Built in the shape of a door facing the sea, it represents the gateway to Europe, and commemorates the women, men and children who lost their lives "in search of a better life".[107]

V. Conclusion

79. The Special Rapporteur wishes to pay tribute to those, within central and local governments and international intergovernmental organizations and international and national civil society and non-governmental organizations, as well as private citizens, who are working to protect refugees and migrants around the world, including against arbitrary deprivation of life. They do so in a global context where migration is associated with criminality, including threats to security and employment, and where their actions to uphold a legal obligation and a moral imperative — saving lives — are attacked, criticized and sometimes criminalized.

80. States are entitled to exercise jurisdiction over their borders. However, they must do so on the basis of their human rights obligations, including their obligations with regard to the right to life of refugees and migrants.

81. The absence of accurate data on the dead and missing refugees and migrants represents a "secondary crisis beyond the initial loss of life of hundreds of migrants each year".[108] The frequent absence of investigations into these deaths is an additional, worldwide violation of the right to life, contributing to an international regime of impunity, the invisibility of the violations, and of their victims, and ill-informed policymaking related to migration that may contribute to further deprivation of life.

82. International initiatives related to the global governance of the movement of refugees and migrants constitute an opportunity to address these problems and violations, and to ensure that the right to life of refugees and migrants is respected and protected, including against foreseeable and preventable loss of life.

[106] Field notes, May 2017.

[107] Ibid., see also: Leanne Weber and Sharon Pickering, *Globalization and Borders: Death at the Global Frontier* (New York, Palgrave Macmillan, 2011); and Stefanie Grant, "Recording and identifying European frontier deaths", *European Journal of Migration and Law*, vol. 13, No. 2 (2011), pp. 135-156.

[108] Robin Reineke and Daniel Martinez, "Migrant deaths in the Americas (United States and Mexico)", in *Fatal Journeys: Tracking Lives Lost during Migration*. Tara Brian and Frank Laczko, eds. (Geneva, IOM, 2014).

VI. Recommendations

Recommendations for States, intergovernmental organizations and other actors

A. Integration of protection of the right to life in international initiatives

83. **Indicators for Sustainable Development Goal target 10.7, on the facilitation of orderly, safe and responsible migration and mobility of people, should include the number of dead and missing migrants.**

84. **The 2018 global compact on safe, orderly and regular migration and the 2018 global compact on refugees should focus on the prevention of and responses to the arbitrary deprivation of life of refugees and migrants, and on the collection and sharing of accurate data regarding the dead and missing. They should also include studies on smuggling communities in order to identify possible developmental, non-criminal responses.**

85. **The principles and practical guidance of the Global Migration Group on the human rights protection of migrants in vulnerable situations and within large movements should be supported and implemented. They should include a focus on the prevention of unlawful deaths, including in transit States, en route, and at the hands of States or of non-State actors.**

B. International cooperation for dignified treatment of the dead: 2018

86. **The Global Compacts or their follow-up mechanisms should consider the establishment of an international inquiry and truth commission to uncover and reveal the extent of massive violations of people on the move, including their unlawful deaths, and recommend any follow-up actions for accountability and against impunity and for collective memory.**

87. **They should establish an international permanent multi-stakeholder mechanism for the governance and coordination of search, identification and tracing activities for missing refugees and migrants, including human rights-based protocols for search and rescue in borders areas and other terrain, such as deserts.**

88. **They should develop common methods of recording information and forensic protocols, including from a gender-sensitive standpoint, and international best practices regarding the dignified treatment of the dead to guide States and others.**[109]

C. Transnational justice cooperation

89. **International and regional bodies, such as the United Nations Office on Drugs and Crime, the International Criminal Police Organization (INTERPOL) and the European Police Office (EUROPOL), and international and bilateral initiatives should prioritize investigations into "aggravated smuggling", including through expert meetings, guidelines and technical assistance.**

[109] See, for example, Last Rights project, "The dead, the missing and the bereaved at Europe's international borders".

D. International accountability

90. The International Criminal Court should consider preliminary investigation into atrocity crimes against refugees and migrants where there are reasonable grounds that such crimes have taken place and the jurisdictional requirements of the Court have been met.

States

E. General principles

91. States should ensure that migration governance measures respect, protect and fulfil the right to life of all refugees and migrants, and that, in particular, no policies or practices rely on the likelihood, risk or severity of the harm refugees and migrants may incur to deter entry.

92. They should abide at all times with the principle of non-refoulement, including on the high seas and at borders.

93. They should implement individually based assessments at borders; under no circumstances engage in collective expulsion; and ensure that victims of trafficking, including women and girls, at risk of exploitation shall be entitled to specific protection and individualized assistance.

94. They should review and develop plans for the implementation of the OHCHR Recommended Principles and Guidelines on Human Rights at International Borders.

95. They should work with UNHCR to develop and implement asylum protection-sensitive border management systems.

96. They should adopt or amend legislation to ensure that irregular entry, the attempt to enter in an irregular manner or irregular stay is not considered a criminal offence, and ensure that administrative sanctions applied to irregular entry are proportionate and reasonable.

97. They should ensure that the use of force and use and possession of firearms and other weapons by border authorities is strictly regulated, in accordance with international human rights law, and any misuse or excess thereof is appropriately sanctioned.

F. Investigation

98. States should carry out all investigative efforts into the death or disappearance of refugees and migrants with the cooperation of all States involved, and prioritize investigations into "aggravated smuggling".

99. They should take all appropriate action to bring to justice all persons presumed responsible for the death of refugees and migrants, including through cooperation with other States.

100. They should promptly investigate mass graves of refugees and migrants, and refrain from taking any measures that could derail or delay the investigation.

101. They should investigate policies that may have contributed to unlawful death, and any failure to take reasonable measures to prevent them.

G. Access to justice and remedies

102. **States should ensure that all refugees and migrants and their families have effective access to justice, whatever their migration status: all refugees and migrants and their families should be able, and should be encouraged, to report arbitrary killings and disappearances, file charges and access witness protection, if needed.**

103. **States should ensure that refugees and migrants and their families have access to effective remedies, adequate, effective and prompt reparation for harm suffered and access to relevant information concerning the unlawful death and location of the remains.**

104. **States should ensure that families are able to report that a relative is missing, using simple and accessible procedures, whose security and confidentiality they trust, both inside and outside their countries: States should support families in searching for their missing relatives and, at a minimum, support the efforts of civil societies in providing this service.**

H. Monitoring

105. **States should monitor entry systems in place for their compliance with international human rights and refugee law, in collaboration with civil society.**

106. **States should monitor and record, at borders, points of arrival or disembarkation, all allegations of suspicious death or disappearances for investigation and trend analysis.**

I. Search and rescue

107. **States should implement search and rescue obligations under international human rights and refugee law and maritime law.**

108. **States should ensure that vessels carry out robust search-and-rescue operations, including in international waters.**

109. **States should ensure that interception measures at sea do not, de facto, deny access to international protection or lead to anyone being returned, directly or indirectly, to territories where their life or freedom would be threatened.**

110. **States should deploy preventive measures, such as rescue beacons.**

111. **States should cooperate with and facilitate the work of civil society organizations engaged in search and rescue operations.**

112. **States should monitor newly identified migratory routes — either by land or by sea, with a view to saving lives and upholding human rights in order to prevent unlawful death, to the extent possible.**

113. **States should ensure that those who offer services, such as assistance to search and rescue operations, medical support, shelter and legal advice, are explicitly protected from prosecution.**

J. Right to truth and collective memory

114. States should consider setting up a national or regional truth commission tasked with discovering and revealing the truth about the unlawful death of refugees and migrants.

K. Identification, tracing and burial of the dead

115. States should implement, inter alia, the Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016) and best practices regarding the treatment of the dead, such as those set out in the publication of the International Committee of the Red Cross, *Management of Dead Bodies after Disasters: A Field Manual for First Responders*, and the "Last Rights" project five-point action plan; and support and train local officials to implement these standards.

116. States should establish centralized regional databases and mechanisms to link existing national databases.

117. States should establish firewalls between criminal/enforcement data collection and data collected for identification.

United Nations A/72/336

General Assembly

Distr.: General
15 August 2017

Original: English

Seventy-second session
Item 22 (c) of the provisional agenda*
Globalization and interdependence

Culture and sustainable development

Note by the Secretary-General**

The Secretary-General hereby transmits the report prepared by the United Nations Educational, Scientific and Cultural Organization in accordance with General Assembly resolution 70/214.

* A/72/150.

** The present report is submitted late so as to allow time for its review and final clearance by the United Nations Educational, Scientific and Cultural Organization.

17-14049 (E) 060917

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Report of the United Nations Educational, Scientific and Cultural Organization

Summary

The present report, prepared in consultation with relevant stakeholders, provides the progress made with regard to culture and sustainable development since the adoption by the General Assembly of resolution 70/214. As requested by the Assembly, the report also includes an assessment of the compilation of quantitative data, including indicators and statistics, with a view to informing development policies and relevant reports, as well as progress in the development of national capacities, to optimize the contribution of culture to sustainable development.

I. Introduction

1. The present report is submitted pursuant to General Assembly resolution 70/214, entitled "Culture and sustainable development", in which the Assembly requested the Secretary-General to submit to it, at its seventy-second session, a progress report on the implementation of the resolution. Building on its long-standing advocacy and unique set of tools and international conventions to foster culture and creative industries as a driver and enabler of sustainable development, the United Nations Educational, Scientific and Cultural Organization (UNESCO) prepared the report in a consultative manner with key United Nations partners and member States that submitted relevant policy and programmatic information.

2. The report highlights the progress made in the implementation of the resolution at the country and global levels and builds on those contributions in recognition of the role of culture in sustainable development.

3. The adoption of the 2030 Agenda for Sustainable Development signalled a major turning point in global efforts to address development challenges and, for the first time, the role of culture was integrated into its 17 Sustainable Development Goals. From cultural heritage to cultural and creative industries, from sustainable tourism to cultural infrastructure, culture fosters and drives the social, environmental and economic dimensions of sustainable development. It is a crucial factor in social cohesion and poverty alleviation, and supports transversal issues such as education, urban development and gender equality to enable the full achievement of development outcomes. It has become clear that culture can no longer be seen as a dividend of development, but rather as a prerequisite to achieving it.

4. Sustainable Development Goal 11, "Make cities and human settlements inclusive, safe, resilient and sustainable", provides a major inroad for culture, in particular through target 11.4, strengthen efforts to protect and safeguard the world's cultural and natural heritage. It places culture within the current global context of rapid population growth and urbanization, whereby 70 per cent of the global population is expected to live in cities by the year 2050.

5. Accordingly, during the reporting period, the role of culture in sustainable urban development has been a key focus of the programmatic work of UNESCO, in close partnership with its networks, including the World Heritage Cities Programme and the UNESCO Creative Cities Network, and through the implementation of its normative instruments.[1] During the eleventh annual meeting of the Network, held in Enghien-les-Bains, France, in June 2017, a new strategy was adopted for the integration of culture and creativity in the implementation of the 2030 Agenda, in particular, Sustainable Development Goal 11. In the context of the 2011 UNESCO Recommendation on the Historic Urban Landscape, which sets out a holistic approach to urban heritage conservation, pilot projects have been carried out in several cities. For example, in 2015, the city of Ballarat, Australia, adopted a strategy for its long-term development vision, created as a result of public consultations based on the Historic Urban Landscape approach.

6. UNESCO launched the Culture for Sustainable Urban Development Initiative in 2015, recognizing culture as a key tool for promoting sustainable urban development through the safeguarding of cultural heritage and the promotion of the

[1] In particular, the Convention concerning the Protection of the World Cultural and Natural Heritage (1972), the Convention for the Safeguarding of the Intangible Cultural Heritage (2003), the Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005) and the Recommendation on the Historic Urban Landscape (2011).

diversity of cultural expressions. In the context of the initiative, the city of Hangzhou, China, hosted an international conference on the theme "Culture for sustainable cities" in December 2015. The conference concluded with the adoption of the Hangzhou outcomes, in which culture was placed at the heart of an integrated, place-based and innovative approach to working towards inclusive, people-centred and culturally sensitive urban development.

7. Building on the Hangzhou outcomes, UNESCO launched the *Global Report on Culture for Sustainable Urban Development* — entitled *Culture: Urban Future*, at the United Nations Conference on Housing and Sustainable Urban Development (Habitat III) in Quito in October 2016. The report set out the results of the first global survey on urban heritage, which was conducted in cooperation with nine partner institutions, and included contributions from more than 60 high-level experts, mayors and organizations, and 111 case studies from around the world. The strategic guidelines proposed in the report for supporting decision makers at the national and local levels, experts and other stakeholders involved in urban development were as follows: people-centred cities are culture-centred spaces; quality urban environments are shaped by culture; and sustainable cities need integrated policymaking that builds on culture. In addition, the report highlighted the need to create a new, culture-based urban model that is adapted to national and local frameworks for incorporating culture in urban planning tools; addresses the knowledge gap in culture and heritage at the urban level through partnerships with universities; develops innovative financing; and strengthens training for urban professionals.

8. In the framework of Habitat III and the adoption of the New Urban Agenda, Member States, United Nations organizations and research institutions jointly advocated the recognition of the role of culture in sustainable urban development through a series of regional and thematic meetings. In an issue paper on urban culture and heritage, a policy paper on sociocultural urban frameworks and two side events held on the margins of Habitat III, the role of culture specifically was addressed. The exercises involved the collaboration of key stakeholders, including representatives of the Office of the United Nations High Commissioner for Human Rights, the Department of Economic and Social Affairs, UNESCO, the United Nations Human Settlements Programme (UN-Habitat), United Cities and Local Governments, the World Bank Group, the European Parliament, the European Commission, the Spanish Agency for International Cooperation for Development, the Institut africain de gestion urbaine, high-level experts and academics, and representatives from national and local governments and the private sector. The efforts contributed to the shaping of the New Urban Agenda, affirming that safeguarding and promoting culture is a precondition to achieving sustainable urban development.

9. The role of culture is reflected throughout the New Urban Agenda, which serves as a road map for the global community that includes commitments, as priority components of urban plans and strategies, to promoting culture and respect for diversity in the humanization of cities and human settlements and in the implementation of sustainable consumption and production patterns.

10. Building on that process, UNESCO has launched its Urban Network on Culture, an initiative aimed at promoting knowledge-sharing, stimulating research and increasing cooperation among international institutions, experts, academia and civil society. The purpose of the initiative was also to harness the organization's role of convener, working with its expert networks around the world to advance the promotion of culture in people-centred, inclusive urban planning and policies.

11. As a means of strengthening cooperation between local governments, and within the wider international community, the United Cities and Local Governments convened a summit on the theme "Commitments and actions for culture in sustainable cities", held in Jeju, Republic of Korea, in May 2017. The summit brought together more than 500 participants to advance discussions on the role of culture in sustainable development. The five actions proposed at the conclusion of the summit were: to foster policy innovation and peer-learning on culture and local sustainable development; to recognize best practices of culture in sustainable cities; to advocate for the place of culture in global agendas; to enhance cross-sectoral networking on culture and sustainable development; and to strengthen global debates and partnerships.

12. In July 2017, the World Bank and UNESCO renewed their commitment to sustainable development by signing a memorandum of understanding to develop joint initiatives for sustainable urban development, building on cultural heritage and creativity as resources and assets. The new agreement is based on three strategic areas of action: historic urban landscapes and urban regeneration; cultural and creative industries; and resilience and disaster risk management.

II. Progress in the implementation of resolution 70/214

13. In its resolution 70/214 on culture and sustainable development, the General Assembly invited all countries, intergovernmental bodies, organizations of the United Nations system, relevant non-governmental organizations (NGOs) and all other relevant stakeholders to increase their efforts to implement specific measures to enhance the role of culture. The implementation of the relevant paragraphs of the resolution is addressed in the following section.

A. Promoting cultural diversity through education and the media

14. Educational tools that are used to promote respect for cultural diversity and consider the social, cultural, ethnic and religious local context have proved effective in supporting quality education and fostering cohesive societies. The Russian Federation has reported a renewed recognition of the educational role of museums in strengthening cultural identity and developing prosperous knowledge societies. From 2012 to 2016, public visits to State museums increased by 28.5 per cent, participation in guided tours increased by 20.5 per cent and the number of exhibitions increased by 34.3 per cent. Several countries have highlighted the role of culture within formal and informal education in fostering pluralism, democratic societies and positive civic participation. Greece, for example, has underlined the role of culture in the education system in promoting social cohesion, inclusion and active citizenship. In line with the 2030 Agenda, UNESCO takes an interdisciplinary approach to strengthening target 4.7, appreciation of cultural diversity and of culture's contribution to sustainable development in order to promote quality education. Respect for cultural diversity is an element of the UNESCO Recommendation concerning Education for International Understanding, Cooperation and Peace and Education relating to Human Rights and Fundamental Freedoms of 1974, and the implementation reports of member States submitted in 2016 will help to map progress in achieving target 4.7.

15. Cultural diversity in arts education has also been acknowledged for its role in skills development and in nurturing creativity and innovation. Norway has cited one of its national programmes, "Cultural schoolbag", as a means of providing students with a broad understanding of various professional artistic and cultural outputs As

innovation has emerged as a marker of a competitive economy, countries are responding by taking measures to expand the opportunities available to nurture creativity. From 2015 to 2017, Turkey contributed approximately US$16 million to NGOs to run 705 cultural projects through the GENÇDES programme, in order to boost the participation of young people in cultural and artistic activities.

16. UNESCO has implemented the Plan of Action to Prevent Violent Extremism (A/70/674) of the Secretary-General of the United Nations, adopted in February 2016, through operating in its fields of expertise: education, skills development and employment facilitation; empowerment of young people; strategic communications, the Internet and social media; and gender equality and empowerment of women. As a contribution to the Plan of Action, in May 2016, UNESCO issued a report entitled "A teacher's guide on the prevention of violent extremism" as a resource for educators to address the drivers of violent extremism.

17. Information and communications technology and new technologies have been utilized to advance knowledge management, conservation and archiving, and to explore new ways of sharing culture with the public. In Armenia, museums have introduced virtual tour programmes, three-dimensional animation, websites and electronic databases with information on cultural property and digitized manuscripts. UNESCO has led a campaign entitled "#Unite4Heritage", in which social media is used to mobilize people everywhere to stand against deliberate attacks on cultural heritage during conflict. Since launch of the campaign in June 2015, civil society and decision makers have contributed to the campaign to counter propaganda, sectarian agendas and extreme violence, and to promote cultural diversity as a positive, unifying force.

18. Measures to promote cultural diversity have proven beneficial to strengthening the social and cultural well-being of communities. The cultural offerings Mauritius are shaped by the diverse cultures of the country, and the Government has taken measures to support public events that celebrate linguistic diversity and commemorate days of cultural importance. Myanmar has continued to promote its annual national ethnic traditional performing arts competition through television and radio broadcasts in order to raise public awareness of safeguarding traditional heritage practices and to encourage the participation of young people. In Brazil, the introduced Government has introduced incentives to encourage public enjoyment of cultural services and to help to democratize access, generate economic returns and stimulate long-term public support for the sector. In 2015, 471,800 workers, 9,039 beneficiary companies and 40 registered providers participated in the Vale-Cultura initiative, a voucher system that allows employees to pay for arts activities, performances, books and tuition. More broadly, Norway has designed and implemented its cultural policy with the view that arts and culture should reflect the inherent diversity of modern-day society. That view has also been reflected in its funding processes, which are carried out to ensure diversity in arts and cultural expressions.

B. Including culture in social, economic and environmental development policies and strategies

19. In line with the 2030 Agenda, member States have aimed to align the implementation and monitoring of six UNESCO Culture Conventions with the wider concept of sustainable development.

20. In 2015, the General Assembly of States Parties of the 1972 UNESCO Convention concerning the Protection of the World Cultural and Natural Heritage adopted the World Heritage Sustainable Development Policy, a set of guidelines

under which countries can establish a stronger relationship between conservation processes and sustainable development policy frameworks, and mainstream development principles into national processes in full respect of the outstanding universal value of World Heritage properties. In 2017, sustainable development was integrated as one of the cross-cutting issues into the revised framework of the periodic reporting exercise for the Convention.

21. Similarly, in 2016, the operational directives of the 2003 Convention for the Safeguarding of the Intangible Cultural Heritage were adopted by 177 countries to strengthen the role of intangible heritage as a guarantee of sustainable development. In accordance with the guidelines, States parties were encouraged to incorporate the economic, social and environmental dimensions of sustainable development, as well as of peace and security, into development plans, policies and programmes. They also called for the need to acknowledge the dynamic nature of intangible cultural heritage in urban and rural contexts, and for safeguarding efforts to be directed to intangible cultural heritage that is compatible with existing international human rights instruments, with the mutual respect of communities, groups and individuals.

22. At the regional level, the Ministers of Culture of the Community of Latin American and Caribbean States have agreed on strategic actions to be implemented in the field of culture during the 2016-2021 period in order to contribute to achieving the Sustainable Development Goals. The UNESCO Work Plan for Culture in Latin America and the Caribbean 2016-2021, adopted in September 2015, outlined a basis for coordinated efforts toward broader development goals while factoring in regional national priorities and needs. It serves as a guidance tool for member States in the region to improve evaluation and monitoring across four thematic areas of work: development of national policies and legislation; capacity-building; research and awareness-raising; and cooperation mechanisms. UNESCO has also taken a leading role in the Regional Coordination Mechanism for Africa, with a view to integrating culture in targeted actions in follow-up to the Africa Agenda 2063 and the 2030 Agenda.

23. At the national level, Finland has integrated culture into its economic, social and environmental development policies and strategies. In addition, culture is at the core of the economic development policy of all 19 Finnish regions and municipalities. Guidelines have been incorporated in the Malawi Growth and Development Strategy II to strengthen institutional capacity, promote research on the cultural industries, encourage arts education and entrepreneurship and establish a national arts and crafts council. Lesotho, Namibia and Turkey have reported that their national cultural policies are being updated to reflect the economic and social benefits of culture, highlighting it as the necessary foundation to ensure that sustainability goals are met. Similarly, the Russian Federation has pursued the integration of the principles of socially oriented State cultural policy in its legislation and has introduced measures to develop cultural infrastructure in towns and rural areas in order to increase access to cultural goods and services, nurture the cultural potential of regions and ensure the affordability of cultural services for different social groups.

24. Echoing recent trends, heritage and the cultural and creative industries have continued to be recognized as important drivers of job creation and economic growth. With regard to heritage, job creation and economic growth has been primarily generated by tourism. As part of its 2017 tourism development plan, Armenia has organized traditional festivals in regional areas to develop territorial economic potential and diversify tourism products. Croatia has launched a regional development strategy to mainstream sustainable development principles by targeting economic growth through the sustainable management of cultural assets and production across 20 counties. Brazil and Greece have reported efforts to map the

cultural and creative industries in order to measure economic and societal impact and capture statistical data for evidence-based policymaking. Since its launch in 2010, the Canada Media Fund has supported the production of Canadian content and audiovisual media platforms, leveraging 3.40 Canadian dollars (2.73 United States dollars) of activity for every dollar invested and generating a total of 4.8 billion Canadian dollars (3.86 billion United States dollars) in industry activity.

25. A common thread that has emerged from reports of member State contributions is the transformative power of culture with regard to social issues. Bulgaria has cited culture as an important and integral part of national plans to tackle poverty reduction, social inclusion, regional development, policies on youth and ageing. Culture has played an increasingly crucial role in the country with regard to migration, security, governance, the economy and education. Finland has highlighted that culture is the key to one of the two priorities behind its implementation of the 2030 Agenda, namely: ensuring a non-discriminating, equal and competent Finland; and fostering engagement and a sense of community through access to culture, participation in cultural activities and arts education.

26. Interventions for human development have proved most effective when they are responsive to the cultural context of a particular place and community. UNESCO joined with the World Health Organization (WHO) to host a third expert meeting on cultural contexts of health and well-being, held at UNESCO headquarters in March 2017. The meeting encouraged the safeguarding of health practices identified as living heritage and was part of a broader WHO initiative that builds on the increased recognition of culture's role in the provision of quality health care through local, culturally sensitive approaches.

27. To strengthen the contribution of underwater cultural heritage to global efforts on ocean sustainability, two UNESCO side events were held at United Nations headquarters in February 2017 and during the United Nations Conference to Support the Implementation of Sustainable Development Goal 14; Conserve and sustainable use the oceans, seas and marine resources for sustainable development, held in June 2017. The events were aimed at advancing the protection and research of underwater cultural heritage in accordance with 2001 Convention on the Protection of the Underwater Cultural Heritage and to enhance its role in the implementation of Sustainable Development Goal 14 on oceans.

28. Building on the 2015 Paris Agreement on Climate Change, UNESCO has launched a process to update its Strategy for Action on Climate Change. With a global network of 206 natural World Heritage sites, 35 mixed (natural and cultural) World Heritage sites, 103 World Heritage cultural landscapes, 669 biosphere reserves and 127 Global Geoparks, UNESCO-protected areas include every major ecosystem and contribute to the well-being of hundreds of millions of local and indigenous peoples. These internationally designated areas have been increasingly recognized as platforms to apply and test approaches to sustainable development, including climate monitoring, mitigation and adaptation, in order to better assess related threats to natural resources, food security, water, health and political stability, as well as the cultural heritage of humanity. In 2016, UNESCO, the United Nations Environment Programme and the Union of Concerned Scientists jointly published the report entitled *World Heritage and Tourism in a Changing Climate*, which profiled 31 World Heritage properties in 29 countries affected or threatened by climate change. The report provided evidence-based data on a wide range of climate impacts and their bearing on the integrity and authenticity of the sites, as well as the local communities that depend on tourism for their livelihoods. Moreover, it illustrated how World Heritage properties provide opportunities for climate mitigation and adaptation.

C. Enabling women and men to equally access, participate in and contribute to cultural life

29. UNESCO has continued to mainstream gender equality and the empowerment of women and girls into its Culture Conventions through its reporting processes, capacity-building and data collection, as a component of development indicators and a criterion for financial assistance. A gender perspective has been integrated into the safeguarding policies, programmes and capacity-building materials of the 2003 Convention for the Safeguarding of the Intangible Cultural Heritage. The Convention on the Protection and Promotion of the Diversity of Cultural Expressions of 2005 includes specific provision for policies and measures that promote the participation of women in the cultural and creative industries. Parties are required to report on policies that promote gender equality at different stages of the value chain in their quadrennial periodic reports. The promotion of gender equality has also become a core requirement for the International Fund for Cultural Diversity of the Convention, established to support the emergence of cultural and creative sectors in developing countries.

30. At the policy level, some member States have referenced specific plans and legislation to address gender equality in the field of culture. In that regard, the Ministry of Education and Culture of Finland has launched a functional gender equality plan for period 2013-2017 to guide strategic, legislative, financial and project planning in the field of cultural policy. In Armenia, the law on equal rights and equal opportunities of women and men, which defines the guarantees of providing equal rights and opportunities to women and men in political, social, economic, cultural and other spheres of public life, entered into force in 2013. In addition, various activities in the fields of cinematography and the safeguarding of intangible heritage have been organized in the framework of the "Republic of Armenia Gender Policy Strategic Action Plan for 2011-2015". Greece has established its "Observatory on Gender Equality" to inform policy design, implementation and evaluation through sex-disaggregated data on equality issues.

31. Targeted initiatives and cultural projects incorporating a gender perspective can be effective in enhancing gender equality and the empowerment of women and girls. Since 2012, the Ministry of Culture and Monument Protection of Georgia has supported 32 projects focused on gender issues, many initiated by women. A 2015 report of the Canadian film industry showed that, in a sample of 91 feature films made during 2013 and 2014, only 17 per cent of directors, 22 per cent of writers and 12 per cent of cinematographers were women. In 2016, the National Film Board of Canada announced that for the next three years, it would ensure that half of its productions would be directed by women and half of all production spending would be allocated to films directed by women. The Australia Council, that country's federal arts funding body, monitors its grant outcomes and activities with regard to a range of demographic groups, including from a gender perspective. From 2015 to 2017, 58 per cent of Council funding was awarded to female artists, and 60 per cent of the group of assessors included female artistic peers.

32. While some countries have taken steps to improve opportunities for women, the need to ensure gender equality in the cultural sector, in particular in decision-making roles, has not yet been adequately addressed. Supporting informed policymaking is further hampered by limited data on gender. The lack of available data on the experience of women of culture was echoed in a 2016 report prepared by the Special Rapporteur in the field of cultural rights, Karima Bennoune, submitted in accordance with Human Rights Council resolution 28/9. In the report, the Special Rapporteur called for the development and adoption of a fully gender-sensitive approach to protecting cultural heritage and to combating its destruction.

33. Women artists and audiences face particular risks and barriers to artistic freedom. The NGO Freemuse: the World Forum on Music and Censorship, which has consultative status with the Economic and Social Council, registered 1,028 attacks on artists and violations of their rights across 78 countries in 2016, a figure that doubled from 2015. Freedom of artistic expression has gained priority and visibility within the operationalization of the 2005 Convention and the 1980 Recommendation concerning the Status of the Artist, supported by the cooperation of Member States, international bodies and activists working in that field. In 2016, the first UNESCO Goodwill Ambassador for Artistic Freedom and Creativity, Deeyah Khan, was appointed, and several high-level meetings and seminars were held around the world.

34. Guarantees of fundamental rights and freedoms of citizens and non-discrimination clauses were cited by several Member States as part of their country's constitution and/or national policy and legislation. The Government of Uruguay has adopted policies based on promoting democratic access to culture. Its national plan for culture for the period 2015-2019 contains three core pillars: cultural rights; recognition of cultural diversity to support the full realization of human rights; and culture and development, with culture as an essential component of human development. Mauritius has reported that women, young people, children, people with disabilities and vulnerable groups are not discriminated against in the promotion of arts and culture. Similarly, Bulgaria has reported that diversity, gender, disabilities, the fundamental rights of citizens and freedoms are guaranteed by its constitution and national legislation in the field of culture. Namibia has reported that human rights are integral to its 2016 policy on national arts, culture and heritage, which ensures that all persons, groups and communities have the right to equal and fair opportunities to participate in the arts and culture, conserve and develop their cultural heritage and contribute to overall national economic, social and environmental development. Through its subsidized programme dedicated to the culture of disadvantaged groups, Slovakia has disbursed, 980,000 euros (1.1 million United States dollars) in 2017 to support cultural activities for groups of physically disabled or otherwise disadvantaged persons.

D. Promoting capacity-building for the development of a dynamic cultural and creative sector

35. Strengthening human and institutional capabilities for improved cultural governance at the national level in developing countries is a central objective of the project on the theme "Enhancing fundamental freedoms through the promotion of the diversity of cultural expressions", implemented by UNESCO and funded by the Government of Sweden. From 2014 to 2017, 12 countries, Burkina Faso, Cambodia, Colombia, Cuba, Ethiopia, Indonesia, Morocco, Rwanda, Senegal, Tunisia, Viet Nam and Zimbabwe, benefited from support for evidence-based policymaking and participatory governance in the areas of fundamental freedoms, cultural policies, international cooperation, preferential treatment, media diversity and gender equality. Certain countries have also implemented targeted policies and initiatives that have strengthened the cultural skills base and support business incubators. In 2015, Norway established a special policy council to advise the Government on how to promote the development of the cultural and creative industries. In the area of skills development, Uruguay has established a series of "cultural assembly plants" in different regions that provide inclusive spaces for social and cultural interaction and facilities for training.

36. Capacity-building is an area of action within the mandate of the UNESCO Creative Cities Network, which currently counts 116 member cities in 54 countries.

The Network promotes human and institutional capacities by recognizing that it is at the local level that creativity is stimulated and nurtured. To this end, Santa Fe, the United States of America, has organized and participated in exchanges that offer training for artists, administrators and officials. As a result of a policy to boost the city's creative industries of Shanghai, China, is home today, to 87 creative clusters, 283 art institutions and 239 art and cultural community centres, with 7.4 per cent of the its residents employed in the creative industries.

E. Supporting the emergence of local markets for cultural goods and services

37. The cultural and creative industries are among the most dynamic sectors in the world economy, generating $2.25 billion in revenue and 29.5 million jobs worldwide. In that spirit, countries are harnessing the potential of high-growth areas of the market for economic returns and poverty alleviation. Indonesia, for example, established the Creative Economy Agency in 2015 to strengthen the creative industries through investments in education and research, infrastructure development, public awareness of intellectual property rights and campaigns for their promotion in domestic and international markets. Indonesia also adopted, in May 2017, a new law on the advancement of culture, directly inspired by the principles of the 2005 Convention, which puts the cultural and creative industries at the heart of its development strategy. Poland has reported high growth in its creative industries in recent years; the video games sector was valued at $95 million in 2016, the number of design and fashion companies doubled from 2009 to 2013, and the music sector experienced 50 per cent growth from 2013 to 2016. Argentina has cited the Market of Cultural Industries of the South, comprising 10 South American countries, as an effective regional programme that encourages the development and consolidation of cultural industries and provides access to the means of production, dissemination and distribution of cultural goods and services.

38. The advent of the digital age has transformed the way in which cultural goods and services are created, produced, distributed and consumed. Increasingly, cultural products have become transboundary creations that can be exchanged throughout the world through the media and the Internet. Access to technology, however, is uneven and unequally distributed within and between countries, with many developing countries lacking capacities and infrastructure, thus exacerbating existing inequalities.

39. At the national level, Governments have been building on the expansion of public service media and digital technologies in efforts to democratize access to culture, bridge gaps between rural and urban areas, improve livelihoods and expand tools for creativity and innovation. Kenya, for example, used such a strategy to liberalize its media sector in the early 1990s. Increased access to diverse cultural expressions was achieved through the expansion of print and electronic media and the growth of local language broadcasting stations. In June 2017, the Conference of Parties to the 2005 Convention, comprising 144 countries and the European Union, adopted operational guidelines on digital issues in order to promote policies and measures to create, produce, distribute/disseminate and access the digital environment. Freedom of information laws, telecommunications policy, e-commerce and Internet governance are related policy issues that are foreseen to be considered increasingly in the legislative and operational context of the 2005 Convention.

40. Facilitating artist mobility has opened up pathways to international markets for artists and cultural professionals and has harnessed opportunities for exchange and collaboration. Visa restrictions and limits to freedom of expression are just some of

the obstacles that prevent the mobility of artists in some parts of the world. Specific policies for artist mobility have demonstrated how the flow of cultural goods and services can be enhanced with benefits felt throughout the value chain. New Zealand has introduced an immigration policy to streamline visa processes for foreign artists, in particular those from developing countries, who will be performing at major festivals in the country. Targeted initiatives can also provide a springboard to access new creative opportunities, cooperation and stimulate exchange between artists, as demonstrated by the Cultural Partnership Initiative of the Republic of Korea. Through the programme, arts professionals are invited to the Republic of Korea for six months, and between 2005 and 2013, the country counted the participation of 776 artists and creators from 75 countries in Asia, Africa, Eastern Europe and South America. The Aboriginal Peoples Collaborative Exchange, in Canada, has provided opportunities for Aboriginal artists to travel to other Aboriginal communities to collaborate on traditional or contemporary artistic practices.

F. Safeguarding traditional knowledge and practices of environmental management

41. In line with the commitments made in the Addis Ababa Action Agenda of the Third International Conference on Financing for Development, adopted in 2015, the role of traditional knowledge in supporting social well-being and sustainable livelihoods is contingent on enabling indigenous communities to protect and develop their cultural heritage, knowledge systems and cultural expressions. For that reason, the contribution of local and indigenous knowledge and environmental management practices provide valuable insights and tools to enhance global partnership for universal, inclusive economic prosperity and improve the well-being of people while protecting the environment. In the context of the Convention concerning the Protection of the World Cultural and Natural Heritage of 1972 and the Convention for the Safeguarding of the Intangible Cultural Heritage of 2003, UNESCO and the Food and Agricultural Organization of the United Nations (FAO) have continued their collaboration through the Globally Important Agricultural Heritage Systems programme to safeguard and support the world's traditional agricultural heritage systems, in particular through land use regulation to protect peri-urban areas and the management of access to water.

42. Revisions made in 2015 to the Operational Guidelines for the Implementation of the World Heritage Convention included a reference to the need to prepare nominations with the widest possible participation of stakeholders and to demonstrate the free, prior and informed consent of indigenous peoples. Ethical principles for safeguarding intangible cultural heritage were also created to complement the 2003 Convention for the Safeguarding of the Intangible Cultural Heritage and the development of specific codes of ethics and tools adapted to local conditions.

43. International and national policy and legislative frameworks can require the participation of local communities in their implementation. Kenya, for example, has reported that national water management and wildlife conservation acts require that communities be engaged in conservation measures. In 2016, Kenya enacted a new law, the Protection of Traditional Knowledge and Cultural Expressions Act, for the protection and promotion of traditional knowledge and cultural expressions, and has been developing draft traditional medicine legislation aimed at strengthening and developing the traditional and herbal medicine sector. The national museums of Kenya have also worked with local communities to link indigenous traditional knowledge to modern science through the university departments of ethnobotany, ethnomedicine and phytochemistry.

44. The potential of heritage to foster resilience and reduce the risk of disaster has been demonstrated. Traditional knowledge systems, ranging from approaches to construction to ecological management systems, can help to prevent or mitigate the impact of disasters and provide sufficient coping mechanisms for local communities in post-disaster situations. In the Sendai Framework for Disaster Risk Reduction 2015-2030, Member States advocated a culturally sensitive approach to disaster risk reduction is advocated across its four priority areas for action: understanding disaster risk; strengthening disaster risk governance to manage disaster risk; investing in disaster risk reduction for resilience; and enhancing preparedness for effective response and to "build back better" in recovery, rehabilitation and reconstruction.

G. Promoting global awareness of the linkages between cultural and biological diversity

45. In the Lima Action Plan for UNESCO's Man and the Biosphere Programme and its World Network of Biosphere Reserves (2016-2025), a set of actions is outlined that ensures a participatory approach to the nomination and management processes of biosphere reserves and through which local and indigenous practices, traditions and cultures are considered. In June 2016, 60 participants from nine countries (Australia, Indonesia, Japan, Republic of Korea, Malaysia, Myanmar, Thailand, United Kingdom of Great Britain and Northern Ireland and Viet Nam) met in the Wakatobi biosphere reserve, in Indonesia, to discuss the role of local government in implementing the Lima Action Plan for sustainable development.

46. The contribution of UNESCO to the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services includes the promotion of cooperation among the United Nations Environmental Programme, the United Nations Development Programme, FAO and the 127 member countries of the Platform to conduct multi-scale assessments in the context of UNESCO World Heritage sites and biosphere reserves. The UNESCO Local and Indigenous Knowledge Systems programme has also supported the Platform in the framework of its regional assessments of biodiversity and ecosystem services. During the reporting period, indigenous and local knowledge dialogue workshops were held for Africa, Europe and Central Asia, the Asia-Pacific region and the Americas. In Finland, a new act on the implementation of the Nagoya Protocol and related European Union regulations, which does not contain restrictions on the use of the genetic resources of Finland unless the traditional knowledge of the Sami people is used, entered into force in 2016. According to the act, a database relating to genetic resources will be established for the traditional knowledge of the Sami people.

H. Protecting and preserving cultural heritage and cultural property: the fight against illicit trafficking in cultural property, the return of cultural property and recognizing the importance of intellectual property rights

47. The escalation of attacks on cultural heritage around the world in recent years, in particular by non-State actors, damaging the records of a community's past and its prospects for rehabilitation, social cohesion and economic and social development, has become a disturbing trend. Moreover, the scale and systematic nature of the attacks on culture have highlighted the strong connection between the cultural, humanitarian and security dimensions of conflicts.

48. With the adoption of Security Council resolutions 2199 (2015) and 2253 (2015), in which the Council introduced legally binding measures to combat the illicit trafficking of antiquities and cultural objects from Iraq and the Syrian Arab Republic, the link between the looting and smuggling of cultural heritage items and the financing of terrorism activities was underlined. Since the adoption of those resolutions, some 50 Member States have strengthened their legislation and are sharing information and data to combat trafficking and ensure the restitution of antiquities. For example, an expert conference held in Oslo in December 2015 concluded with 13 recommended actions to harness the Nordic countries' resources in combating the illicit export and trade of cultural property. In 2016, the Council adopted resolution 2322 (2016), which was aimed at strengthening international judicial cooperation to prevent and combat trafficking in cultural property that may benefit terrorist groups. The results of the International Conference for the Safeguarding of Cultural Heritage in Conflict Areas, held in Abu Dhabi in December 2016, included the creation of an International Fund for the Protection of Heritage to address trafficking in cultural property and to enhance the safeguarding of heritage in conflict zones.

49. In 2015, a six-year strategy for the reinforcement of the UNESCO Action for the Protection of Culture and the Promotion of Cultural Pluralism in the Event of Armed Conflict was adopted by UNESCO member States. The strategy has two key objectives: to strengthen the ability of Member States to prevent, mitigate and recover the loss of cultural heritage and diversity as a result of conflict, and to incorporate the protection of culture into humanitarian action, security strategies and peacebuilding processes. Activities are organized according to the three stages of any emergency cycle, namely, preparedness, immediate response during conflict and mid- to longer-term recovery/reconstruction. Notably, in 2016, the International Criminal Court brought the first war crimes charge against a defendant for the destruction of cultural sites. The deliberate destruction of cultural heritage was reaffirmed as a war crime in Security Council resolution 2347 (2017), unanimously adopted by the Council and constituting the first Council resolution devoted exclusively to the protection and recovery of cultural heritage.

50. In the context of its 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, UNESCO has continued to strengthen its partnerships with international organizations, the International Criminal Police Organization (INTERPOL), the World Customs Organization, the United Nations Office on Drugs and Crime, the International Institute for the Unification of Private Law, international NGOs, councils and associations, and national and local police and customs authorities. During the reporting period, activities were focused on emergency actions, in particular, those in Iraq, Libya, Mali, Nepal, the Syrian Arab Republic and Yemen. In March 2016, a round table on the role of the art market in the fight against illicit trafficking in cultural property was organized in partnership with the Conseil des ventes volontaires to forge closer cooperation between international and national governmental institutions and NGOs, art market stakeholders, online sales networks and collectors. Through the Convention of 2001, UNESCO has also strengthened its partnerships with international NGOs, the Network for Underwater Archaeology of the UNESCO University Twinning and Networking Programme and INTERPOL in capacity-building and identifying and quantifying threats to underwater cultural heritage, especially with regard to pillaging and commercial exploitation.

51. The above-mentioned activities were complemented by publishing capacity-building materials as guidance for Member States to better ensure the protection of cultural heritage in emergency or conflict situations. The UNESCO publication entitled *Protection of Cultural Property: a Military Manual* provides guidelines for

the incorporation of cultural property protection in national military regulations. To boost the capacities of museums to guide the evacuation of cultural collections, UNESCO and the International Centre for the Study of the Preservation and Restoration of Cultural Property jointly published the handbook *Endangered Heritage: Emergency Evacuation of Heritage Collections*.

I. Developing innovative mechanisms of financing culture

52. In the Addis Ababa Action Agenda and the 2030 Agenda, Member States appealed for greater diversification of funding and the development of issue-based coalitions with a clear premium placed on partnerships and integrated approaches. Methods of innovative financing, such as blended finance, public-private partnerships and mobilizing new funding models for development from emerging donors, have taken on greater importance.

53. Since 2010, the UNESCO International Fund for Cultural Diversity has invested more than $6 million in 90 projects in 51 developing countries. For example, in Morocco, the results of a national survey that consisted of 1,200 interviews documenting cultural practices have led to the formulation of recommendations for improved governance and policies that promote culture as an engine for open societies and economic growth. With the aim of supporting South-South cooperation and nurturing the young talent of the African music industry, more than 150 music professionals from Cameroon, the Congo, Côte d'Ivoire, the Democratic Republic of the Congo, Kenya, Malawi, Mozambique and the United Republic of Tanzania have benefited from internships and training opportunities. The Fund is broadening its funding partners and donors to include the private sector and individuals, which will enable small and medium-sized enterprises in developing countries to apply to it.

54. Member States have put forward illustrative examples of cooperation and funding frameworks that leverage culture to advance development objectives in developing countries. In the area of heritage conservation, Japan has continued to support restoration projects and human resource development to protect and safeguard cultural heritage sites in developing countries, in line with its Law on the Promotion of International Cooperation for Protection of Cultural Heritage Abroad. Canada has partnered with the Inter-American Development Bank and the Department for International Development of the United Kingdom to build the capacities of the Caribbean Animation Cluster in order to provide world-class animation services. Norway has established the South Fund to support films from developing countries. Film producers from those countries can apply for support together with Norwegian co-producers on the condition that most of the production be carried out in the global South. In Lesotho, the private sector has begun to take part in the annual Arts, Culture and Innovation Week, which has helped to generate economic return for the community and develop regional and international tourism. In Brazil, artists and cultural organizations in socially vulnerable regions have benefited from a programme that provides financial support to grass-roots arts projects.

J. Mobilizing culture as a vehicle for tolerance, understanding, peace and reconciliation

55. The crucial role of culture in peacebuilding efforts and conflict resolution has been brought to the forefront in recent years. In response to the rising tide of violence around the world, a more integrated, system-wide approach to

peacebuilding and conflict resolution has been called for. Safeguarding cultural heritage and promoting the diversity of cultural expressions, while fostering values and behaviours that reject violence and build tolerance, play an instrumental role in the social cohesion of societies and peacebuilding.

56. That notion was reiterated in June 2017 by the Ministers of Culture of the States Parties and the associates of the Southern Common Market, who signed a declaration recognizing that culture reinforced the bonds between societies, as an instrument of dialogue and a factor of balance, social peace and development. Argentina, Bulgaria, Finland, Georgia, Greece and Namibia underlined the importance of intercultural dialogue for social cohesion, mutual respect, tolerance and understanding. Conflict resolution and the promotion of peaceful coexistence were the focus of workshops, meetings and an annual international conference in Argentina that brought together international speakers to exchange best practices in public policies and private initiatives. Norway has underscored that democratic governance and respect for human rights are a prerequisite to sustain peace, stability and development. Freedom of expression, including freedom of artistic expression, thus contributes to informed societies and more open and legitimate decision processes.

III. Assessing indicator frameworks and national progress reports

57. To monitor the implementation progress of resolution 70/214, Brazil has established an indicator framework comprising 21 targets and indicators. As part of those targets, a 2015 evaluation showed that 98 per cent of all Brazilian cities have at least one operating public library, enabling free access to information and the transmission of knowledge on cultural diversity and community interaction. Several Member States have reported on how culture is integrated into their national plans for the achievement of the Sustainable Development Goals, as well as how they are employing indicator frameworks to measure their implementation. In Japan, the implementation guiding principles for the Sustainable Development Goals operates as a national strategy to implement the 2030 Agenda. Eight priority areas are set out in the principles through the reconstruction of the 17 Sustainable Development Goals in the light of the national context, along with 140 specific policies and indicators, including measures on cultural heritage. Bulgaria has aligned its national development plan with the 2030 Agenda and has indicated that by 2020 the country will have a competitive economy that provides conditions for the full social, creative and professional development of the individual through smart, sustainable, inclusive and regionally balanced economic growth. Culture has increasingly come to be perceived as an important resource for achieving those goals.

58. National work on indicators to measure the impact of culture on sustainable development has been pursued in 13 countries, namely, Bosnia and Herzegovina, Burkina Faso, Cambodia, Colombia, Costa Rica, Ecuador, Egypt, Ghana, Namibia, Peru, Swaziland, Uruguay and Viet Nam, through the UNESCO Culture for Development Indicators, an initiative that comprises 22 indicators and through which seven policy areas are assessed. Five additional countries have rolled out processes related to the initiative in 2015. The resulting data have helped to highlight the potential of the cultural sector for the socioeconomic development of the countries and has generated concrete policy impacts. For example, the data has informed the inclusion of culture in the United Nations Partnership Framework of Namibia for 2014-2018. In Colombia, as a result of the initiative, the Ministry of Culture has led a research process to measure the contribution of culture to development at the local level.

59. In 2015, UNESCO published the first edition of its biennial global report entitled *Re|Shaping Cultural Policies*, in which the implementation and impact of the 2005 Convention around the world, in support of evidence-based policymaking in the field of culture, are monitored. A monitoring framework comprising 33 core indicators with related means of verification, has been developed to analyse global trends and policy changes over time in the main areas of intervention of the Convention: sustainable systems of governance for culture; trade and flows of cultural goods and services; mobility of artists and cultural professionals; culture in sustainable development frameworks; and human rights and fundamental freedoms. The second edition of the report, to be published in December 2017, will provide new evidence of how promoting the diversity of cultural expressions can contribute to the achievement of the Sustainable Development Goals.

60. In accordance with the adoption of the 2030 Agenda, through the UNESCO Institute for Statistics, a process was launched to develop indicators in order to measure the implementation of the Sustainable Development Goals. In relation to target 11.4, strengthen efforts to protect and safeguard the world's cultural and natural heritage, the Institute is formulating an internationally comparable indicator to reflect the total expenditure per capita of each country on protecting its cultural and natural heritage. That includes public and private sources of expenditure, and investments made at the local, national and international levels.

61. The UNESCO Institute for Statistics has released a new database of sex-disaggregated cultural employment statistics that is focused on the economic contribution of cultural industries in 63 countries and territories. The cultural employment survey was carried out for the first time in 2015 and will be repeated on an annual basis. The data will be used to formulate evidence-based cultural policies and feed into efforts to meet Sustainable Development Goal 8, namely, promote full and productive employment and decent work for all women and men by the year 2030.

IV. Conclusions

62. **The adoption of the 2030 Agenda represents a step forward in the recognition of the integral role of culture throughout the Sustainable Development Goals. It also provides a new impetus for Member States to develop policies and interventions that take into consideration the role of culture in development across its economic, social and environmental dimensions and as a horizontal priority across sectors and disciplines. By introducing and reforming policies, laws and regulations, member States have harnessed the instrumental value of heritage and the cultural and creative industries as tools for poverty alleviation, job creation, economic growth, urban development and environmental management, and its transformative role in supporting quality education, health, social inclusion and peacebuilding.**

63. **Several trends emerged from the contributions of Member States during the reporting period. In response to the continued increase in attacks on cultural heritage in situations of armed conflict, greater global consensus and synergies have been established regarding the cultural, humanitarian and security dimensions of conflicts. That was evidenced by the adoption of Security Council resolutions, the first charge of war crimes by the International Criminal Court for the destruction of cultural sites, the mobilization of resources and the implementation of targeted strategies. In the context of global trends in urbanization and population growth, United Nations entities, Member States, local governments and NGOs have worked together to scale up**

sustainable urban development initiatives with culture at their core, building on cultural heritage and creativity as key drivers of urban prosperity. Several Member States have also highlighted burgeoning creative industries, building on digital technologies and the media, to support the achievement of sustainable development outcomes.

64. The adoption of the 2030 Agenda has provided a fresh incentive for the development of new partnerships and cooperation mechanisms between United Nations agencies, the World Bank Group, Member States, cultural and research institutions, NGOs and experts, which have begun to generate positive outputs. Partnerships have pooled complementary resources and engaged stakeholders in new ways to support policymaking, civic participation and capacity-building, and spearhead targeted projects in a range of areas, including sustainable tourism, urban development, resilience, intangible heritage and creative industries.

65. Building on the report, the international community has underlined that development strategies must be inclusive and that their outcomes must not only be equitable but of high quality. Integrated policymaking provides the engine for achieving sustainable development, whereby culture is integrated across its sectoral components. Ensuring a people-centred approach to development enables a participatory approach to governance in the design, implementation and monitoring of strategies, ensuring the full involvement and ownership of all stakeholders. That entails taking into account the cultures of the communities and individuals involved, including their cultural heritage and cultural expressions. While the international community has advocated inclusive and equitable sustainable development driven by integrated and participatory policies, the inputs support the concept that there is no "one-size-fits-all" model. In moving forward, a multiplicity of development models is needed to achieve truly sustainable outcomes that can be adapted to the local context and through which culture can be placed at the core of sustainability solutions.